

H.J.R. 1, To Committee on Finance.
H.B. 6, To Committee on State Affairs.
H.B. 9, To Committee on State Affairs.
H.B. 78, To Committee on Administration.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider the following bills tomorrow:

H.B. 6
H.B. 9

SENATE RULE 11.11 SUSPENDED

On motion of Senator Haley and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might consider H.B. 78 tomorrow.

MEMORIAL RESOLUTION

S.R. 49 - By Brown: In memory of Margie "Peggie" Oliver Block of Fulton.

CONGRATULATORY RESOLUTIONS

S.R. 45 - By Lucio: Recognizing Virginia Bryan Cowen on the occasion of her retirement from her post as a teacher at Texas Southmost College.

S.R. 47 - By Ellis: Recognizing Dabney Kennedy of Houston on the occasion of his retirement as Section Advisor with the Boy Scouts of America.

S.R. 48 - By Harris of Tarrant, Moncrief: Recognizing Harris Methodist Springwood on the occasion of the dedication of its new Psychiatric and Addiction Unit in Bedford.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:21 a.m. adjourned until 10:00 a.m. today.

EIGHTH DAY

(Wednesday, July 24, 1991)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Jim Cloninger, Hyde Park United Methodist Church, Austin, offered the invocation as follows:

Eternal God, we give You thanks for these beautiful days and for all Your creation. We give You thanks for our people and our country where we have the freedom to assemble and make decisions that affect so many. We give You thanks for our children because they are our hope for the future and we pray that You help us to be ever mindful of them.

Dear Lord, let Your spirit blow through this assembly so that all of us here can be inspired to seek greatness in our hearts and minds. Grant us wisdom to balance our dreams with reality. Show us Your love so that we can show love for those people for whom we are responsible.

Almighty God, You are the Lord of hope who dispels our fears. In You there is no east or west, north or south, male or female, black, white or brown.

In You all things are possible and we pray Your kingdom come. In Jesus' name we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-SPONSOR OF HOUSE BILL 6

On motion of Senator Harris of Dallas and by unanimous consent, Senator Parker will be shown as Co-sponsor of H.B. 6.

GUESTS PRESENTED

Senator Brown was recognized and introduced a group participating in the Leadership Program sponsored by the Alvin/Manvel Area Chamber of Commerce and the Alvin Community College.

The Senate welcomed these guests.

CAPITOL PHYSICIAN

The "Doctor for the Day," Dr. David Watson of Yoakum, was introduced to the Senate by Senator Armbrister.

The Senate expressed appreciation and gratitude to Dr. Watson for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 23

Senator Whitmire offered the following resolution:

WHEREAS, The Senate of the State of Texas proudly recognizes the Houston Police Honor Guard for its outstanding service to the State of Texas; and

WHEREAS, The Houston Police Honor Guard was organized in 1972; the first police honor guard in the state, it serves as the official representative of the Houston Police Department at events throughout Texas and the United States; and

WHEREAS, This exceptional organization conducts the Police Memorial Service each year for the Houston Police Department, represents the department at the National Police Week Memorial Service in Washington, D. C., and was the lead honor guard for the first statewide Police Memorial Service; and

WHEREAS, Comprised of trained and highly skilled volunteers, the Houston Police Honor Guard was selected in 1989 as one of only 13 police units throughout the United States to march in the 1989 Presidential Inaugural Parade; and

WHEREAS, An association noted for its valuable accomplishments and its leadership role in the community, it has received numerous accolades including unit citation awards, the Chief of Police Commendation Award, and recognition in 1990 by the City of Houston City Council; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 1st Called Session, hereby commend the members of the Houston Police Honor Guard for their noble and loyal service and express appreciation for their dedication to the Houston Police Department, the City of Houston, and the State of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Whitmire, the resolution was adopted by a viva voce vote.

(Senator Armbrister in Chair)

BILL AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill and resolutions:

S.B. 9

S.C.R. 2

S.C.R. 6

AT EASE

The Presiding Officer at 10:25 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 10:58 a.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas

July 24, 1991

TO THE SENATE OF THE SEVENTY-SECOND LEGISLATURE, FIRST CALLED SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS BOARD ON AGING, for terms to expire February 1, 1997:

ALICEANNE WALLACE

Rt. 2, Box 2585

Belton, Texas 76513

Ms. Wallace will be replacing Evelyn Porter of San Antonio, whose term expired.

J. KENNETH HUFF, SR.

2507 Evelyn Drive

Whitesboro, Texas 76273

Mr. Huff will be replacing Mary Hazlewood of Amarillo, whose term expired. For a term to expire February 1, 1993:

DAN ROBERTS
2201 Park Place
Fort Worth, Texas 76110

Mr. Roberts will be filling the unexpired term of James Roberts of Andrews, who resigned.

TO BE A MEMBER OF THE TEXAS MOTOR VEHICLE COMMISSION: For a term to expire January 31, 1997: MS. DELMA ABALOS of Odessa, Ector County, will be replacing John R. Cook of Breckenridge, whose term expired.

TO BE A MEMBER OF THE TEXAS REAL ESTATE COMMISSION: For a term to expire January 31, 1997: MS. DEBORAH ANN AIKIN of Commerce, Hunt County, will be replacing Carl Elliott of College Station, whose term expired.

TO BE A MEMBER OF THE TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY: For a term to expire January 31, 1997: MS. CYNTHIA BARNES of Sugar Land, Fort Bend County, will be replacing Dwight L. Kinard of Abilene, whose term expired.

TO BE A MEMBER OF THE TEXAS BOARD OF AVIATION: For a term to expire February 1, 1997: DENNIS A. BLACKBURN of Kingwood, Harris County, will be replacing William M. Knowles of Palestine, whose term expired.

TO BE A MEMBER OF THE TEXAS BOARD ON AGING: For a term to expire February 1, 1997: JOSE E. CAMACHO of Austin, Travis County, will be replacing Jerry Rubnick of Houston, whose term expired.

TO BE A MEMBER OF THE EAST TEXAS STATE UNIVERSITY BOARD OF REGENTS: For a term to expire February 15, 1997: RAYMOND B. CAMERON of Rockwall, Rockwall County, is being reappointed.

TO BE A MEMBER OF THE UPPER COLORADO RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: VICTOR WAYNE CHOATE of San Angelo, Tom Green County, is being reappointed.

TO BE A MEMBER OF THE TAX PROFESSIONAL EXAMINERS BOARD: For a term to expire March 1, 1997: MS. RUTH GLASGOW CLAYTON of San Marcos, Hays County, will be replacing Robert C. Willis of Livingston, whose term expired.

TO BE A MEMBER OF THE COLLEGE OPPORTUNITY ACT COMMITTEE: For a term to expire February 1, 1997: MS. BARBARA J. DUGAS-PATTERSON of Houston, Harris County, will be replacing John W. Craddock, Jr., of Houston, whose term expired.

TO BE A MEMBER OF THE TEXAS GROWTH FUND BOARD OF TRUSTEES: For a term to expire February 1, 1997: MS. MATRICE ELLIS-KIRK of Dallas, Dallas County, will be replacing Gary G. Jacobs of Laredo, whose term expired.

TO BE A MEMBER OF THE STATE BOARD OF INSURANCE: For a term to expire January 31, 1995: MS. ALLENE D. EVANS of Austin, Travis County, will be replacing James E. Saxton of Austin, who resigned.

TO BE A MEMBER OF THE TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY: For a term to expire January 31, 1997: VERNON DALE EVANS of Fort Worth, Tarrant County, will be replacing Rowland D. Pattillo of Waco, whose term expired.

TO BE JUDGE OF THE 151ST JUDICIAL DISTRICT COURT OF HARRIS COUNTY: UNTIL THE NEXT GENERAL ELECTION AND UNTIL

HER SUCCESSOR SHALL BE DULY ELECTED AND QUALIFIED: MS. CAROLYN CLAUSE GARCIA of Houston, Harris County, will be replacing Judge Alice Trevathan of Houston, who was elevated to the position of Chief Justice of the First Court of Appeals.

TO BE A MEMBER OF THE TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY: For a term to expire January 31, 1997: MS. CARMEN C. GARCIA of San Antonio, Bexar County, will be replacing Jarman Bass of Dallas, whose term expired.

TO BE A MEMBER OF THE TEXAS HISTORICAL COMMISSION: For a term to expire February 1, 1997: DR. CLOTILDE P. GARCIA of Corpus Christi, Nueces County, will be replacing Suzanne Waters Harris of San Antonio, whose term expired.

TO BE A MEMBER OF THE BRAZOS RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: JAMES JEFFERSON GIBSON of Guthrie, King County, is being reappointed.

TO BE A MEMBER OF THE TEXAS ALCOHOLIC BEVERAGE COMMISSION: For a term to expire November 15, 1995: MS. RENEE HIGGINBOTHAM-BROOKS of Fort Worth, Tarrant County, will be replacing James Huffines of Austin, who was not confirmed by the Senate.

TO BE A MEMBER OF THE UPPER COLORADO RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: MS. PATRICIA PRUITT IVEY of Robert Lee, Coke County, will be replacing Chester Wilson of Bronte, whose term expired.

TO BE PUBLIC COUNSEL, OFFICE OF CONSUMER PROTECTION, STATE BOARD OF INSURANCE: For a term to expire February 1, 1993: MS. AMY RUTH JOHNSON of Austin, Travis County, will be replacing Kay Doughty of Austin, who resigned.

TO BE A MEMBER OF THE NUECES RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: EDWARD M. JONES of Ingleside, San Patricio County, is being reappointed.

TO BE A MEMBER OF THE TEXAS FUNERAL SERVICE COMMISSION: For a term to expire January 31, 1997: REVEREND TED KARPf of Dallas, Dallas County, will be replacing Dr. Ray Burchette of Austin, whose term expired.

TO BE A MEMBER OF THE TEXAS HOUSING AGENCY BOARD OF DIRECTORS: For a term to expire January 31, 1993: JOSEPH KEMP of Dallas, Dallas County, will be replacing Ken DeJarnett of Dallas, who resigned.

TO BE A MEMBER OF THE TEXAS HISTORICAL COMMISSION: For a term to expire February 1, 1997: THOMAS E. KROUTTER, JR. of Port Arthur, Jefferson County, will be replacing Mary Ann Perryman of Athens, whose term expired.

TO BE A MEMBER OF THE TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY: For a term to expire January 31, 1997: MS. JUDY JADE LEE of Houston, Harris County, will be replacing Nancy Brannon of Lewisville, whose term expired.

TO BE A MEMBER OF THE TEXAS COMMISSION ON JAIL STANDARDS: For a term to expire January 31, 1993: MS. RUTH JONES McCLENDON of San Antonio, Bexar County, will be replacing Ivy T. Corley of Amarillo who resigned.

TO BE A MEMBER OF THE LOWER COLORADO RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: MRS. BETTY JO MILLER of San Saba, San Saba County, will be replacing her late husband, Judge Jack B. Miller, on the board.

TO BE A MEMBER OF THE TEXAS DEPARTMENT OF LICENSING AND REGULATION: For a term to expire February 1, 1997: MS. CARMEN MITCHELL of Dallas, Dallas County, will be replacing Manuel Marrufo of El Paso, whose term expired.

TO BE A MEMBER OF THE BRAZOS RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: CHARLES R. MOSER of Brenham, Washington County, is being reappointed.

TO BE A MEMBER OF THE NUECES RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: BOB MULLEN of Alice, Jim Wells County, is being reappointed.

TO BE A MEMBER OF THE TEXAS HIGH-SPEED RAIL AUTHORITY: For a term to expire June 1, 1997: HENRY RUBEN MUNOZ III of San Antonio, Bexar County, will be replacing John Connally of Houston, whose term expired.

TO BE A MEMBER OF THE TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL AUTHORITY: For a term to expire February 1, 1997: DAVID OJEDA, JR. of Carrizo Springs, Dimmit County, will be replacing Dr. Elbert Whorton, Jr., of Galveston, whose term expired.

TO BE A MEMBER OF THE BRAZOS RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: LYNDON L. OLSON, SR., of Waco, McLennan County, is being reappointed.

TO BE A MEMBER OF THE TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL AUTHORITY: For a term to expire February 1, 1997: MS. CARMEN E. RODRIGUEZ of El Paso, El Paso County, will be replacing James Allison of Austin, whose term expired.

TO BE A MEMBER OF THE TEXAS BOARD OF AVIATION: For a term to expire February 1, 1997: MS. ZENA RUCKER of Grapevine, Tarrant County, will be replacing Walter H. Baxter III of Weslaco, whose term expired.

TO BE A MEMBER OF THE LOWER CONCHO RIVER WATER AND SOIL CONSERVATION AUTHORITY: For a term to expire February 1, 1997: BENJAMIN O. SIMS of Paint Rock, Concho County, is being reappointed.

TO BE A MEMBER OF THE CREDIT UNION COMMISSION: For a term to expire February 15, 1997: TERRY R. STAPLETON of Houston, Harris County, will be replacing Dennis D. Morgan of El Campo, whose term expired.

TO BE A MEMBER OF THE STATE PENSION REVIEW BOARD: For a term to expire January 31, 1997: HUGH L. STEPHENS of Dallas, Dallas County, will be replacing LeRoy M. Hinton of Houston, whose term expired.

TO BE A MEMBER OF THE TEXAS BOARD OF CRIMINAL JUSTICE: For a term to expire February 1, 1995: JUDGE CLARENCE N. STEVENSON of Victoria, Victoria County, will be replacing Ben J. Gallant of Corpus Christi, who was not confirmed by the Senate.

TO BE A MEMBER OF THE TRINITY RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire March 15, 1997: STEPHEN LYLE TATUM of Fort Worth, Tarrant County, will be replacing James Charles Payton of Grapevine, whose term expired.

TO BE A MEMBER OF THE GUADALUPE-BLANCO RIVER AUTHORITY BOARD OF DIRECTORS: For a term to expire February 1, 1997: JOHN C. TAYLOR of McQueeney, Guadalupe County, is being reappointed.

TO BE A MEMBER OF THE TEXAS REAL ESTATE COMMISSION: For a term to expire January 31, 1997: WELDON E. TRAYLOR, SR., of Houston, Harris County, will be replacing Billie Heffner of Burleson, whose term expired.

TO BE A MEMBER OF THE TAX PROFESSIONAL EXAMINERS BOARD: For a term to expire March 1, 1997: CIRO TREVINO of Edinburg, Hidalgo County, will be replacing Michael C. Frazier of Houston, whose term expired.

TO BE A MEMBER OF THE STATE PENSION REVIEW BOARD: For a term to expire January 31, 1997: GILBERT F. VASQUEZ of San Antonio, Bexar County, will be replacing Craig Stanfill of El Paso, whose term expired.

TO BE A MEMBER OF THE TEXAS MUNICIPAL RETIREMENT SYSTEM BOARD OF TRUSTEES: For a term to expire February 1, 1997: ANDRES VEGA, JR., of Brownsville, Cameron County, will be replacing John Ward of Amarillo, whose term expired.

TO BE A MEMBER OF THE STATE SECURITIES BOARD: For a term to expire January 20, 1997: THOMAS DEON WARNER of Houston, Harris County, will be replacing Alan D. Feld of Dallas, whose term expired.

TO BE A MEMBER OF THE TEXAS MUNICIPAL RETIREMENT SYSTEM BOARD OF TRUSTEES: For a term to expire February 1, 1997: CHARLES E. WILSON of Waco, McLennan County, is being reappointed.

TO BE A MEMBER OF THE TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY: For a term to expire January 31, 1997: I. LEE WILSON of Rockwall, Rockwall County, is being reappointed.

Respectfully submitted,

/s/Ann W. Richards
Governor of Texas

**COMMITTEE SUBSTITUTE
SENATE BILL 7 RECOMMITTED**

On motion of Senator Glasgow and by unanimous consent, C.S.S.B. 7 was recommitted to the Committee on State Affairs.

SENATE BILL 24 WITH HOUSE AMENDMENTS

Senator Lyon called S.B. 24 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Williamson

Amend S.B. 24 by substituting the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the efficient operation of the state criminal justice system, including the punishment of offenses, probation and parole, criminal justice services and

facilities, and the issuance of general obligation bonds for acquiring, constructing, or equipping certain of those facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1

SECTION 1.01. Section 8(b), Article 42.18, Code of Criminal Procedure, as amended by H.B. 9, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(b)(1) A prisoner under sentence of death is not eligible for parole.

(2) If a prisoner is serving a life sentence for a capital felony, the prisoner is not eligible for release on parole until the actual calendar time the prisoner has served, without consideration of good conduct time, equals 35 calendar years.

(3) If a prisoner is serving a sentence for the offenses listed in Subdivision (1)(B), (C), or (D) of Section 3g(a), Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, plus [without consideration of] good conduct time earned by the prisoner after the date on which the institutional division grants a certificate to the prisoner under Section 499.055, Government Code, equals one-third [one-fourth] of the maximum sentence or 15 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years.

(4) Except as provided by Subsection (m) of this section, all [A#] other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time earned by the prisoner after the date on which the institutional division grants a certificate to the prisoner under Section 499.055, Government Code, equals one-fourth of the maximum sentence imposed or 15 years, whichever is less.

SECTION 1.02. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (m) and (n) to read as follows:

(m) A prisoner serving a sentence for which parole eligibility is otherwise determined under Subsection (b)(4) of this section may become eligible for special needs parole at a date earlier than the date calculated under Subsection (b)(4) of this section, as designated by a parole panel under this subsection, if:

(1) the prisoner has been identified by the institutional division as being elderly, significantly ill, physically handicapped, mentally ill, or mentally retarded;

(2) the prisoner is determined by the parole panel, because of the prisoner's condition and on the basis of a medical and psychological evaluation, to no longer constitute an undue threat to public safety; and

(3) the pardons and paroles division has prepared for the prisoner a special needs parole plan that ensures appropriate supervision, service provision, and placement.

(n) The Texas Board of Criminal Justice shall contract with state schools, state hospitals, and other state facilities for the placement after release on parole of special needs offenders described under Subsection (m) of this section.

SECTION 1.03. Chapter 614, Health and Safety Code, as added by H.B. 902, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 614.010 to read as follows:

Sec. 614.010. ADDITIONAL MEMBER. In addition to the members of the council prescribed under Section 614.002, the executive head of the Texas Department on Aging shall serve as a member of the council.

SECTION 1.04. Chapter 614, Health and Safety Code, as added by H.B. 902, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 614.011 to read as follows:

Sec. 614.011. ADDITIONAL PILOT PROGRAM. (a) In addition to the pilot program required under Section 614.008, the council shall establish a pilot program in a county selected by the council to implement a cooperative community-based alternative system to divert from the state criminal justice system and rehabilitate nonviolent offenders who are identified as being elderly, significantly ill, or physically handicapped and who are not charged with or sentenced for an instant offense that is described in Section 3g, Article 42.12, Code of Criminal Procedure.

(b) The Texas Department of Mental Health and Mental Retardation shall collaborate with the Texas Department on Aging, the Texas Rehabilitation Commission, and the Texas Department of Health to develop creative community-based alternatives for elderly, significantly ill, or physically handicapped offenders described in Subsection (a).

(c) The Texas Department of Mental Health and Mental Retardation, the Texas Department on Aging, the Texas Rehabilitation Commission, and the Texas Department of Health shall present to the 73rd Legislature a report explaining the results of their collaborative effort, including departmental procedure, policy, or regulation changes, future agency planning, and recommendations for legislation or statutory modification.

(d) The program must conform to the report and recommendations made by the Texas Department of Mental Health and Mental Retardation, Texas Department on Aging, Texas Rehabilitation Commission, and the Texas Department of Health under Subsection (c).

(e) The council may employ and train a case management team to carry out the purposes of the program and to coordinate the joint efforts of agencies represented on the council.

(f) The agencies represented on the council shall perform duties and offer services as required by the council to further the purposes of the pilot program.

SECTION 1.05. Chapter 614, Health and Safety Code, as added by H.B. 902, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 614.012 to read as follows:

Sec. 614.012. ADDITIONAL DUTIES. The council shall perform the same duties for an offender identified as being elderly, significantly ill, or physically handicapped as the council is required to perform under this chapter for offenders with mental impairments.

SECTION 1.06. (a) Subchapter C, Chapter 499, Government Code, as revised by Section 10.01, Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 499.055 to read as follows:

Sec. 499.055. CERTIFICATE FOR EDUCATIONAL ACHIEVEMENT OR PARTICIPATION IN TUTOR PROGRAM. (a) The institutional division shall grant a certificate of educational achievement to an inmate if the inmate:

(1) did not have a high school diploma, high school equivalency certificate, or vocational training diploma at the time the inmate entered the division and:

(A) earned a diploma or certificate after entering the division; or

(B) made a diligent effort to earn a diploma or certificate, and failed to earn the diploma or certificate only because the inmate lacked the intellectual capacity to ever attain such a diploma or certificate; or

(2) had a high school diploma, high school equivalency certificate or vocational training diploma at the time the inmate entered the division, did not have an associate degree or a degree from an institution of higher education at that time, and earned an associate degree after entering the division.

(b) The institutional division shall grant a certificate of participation in an inmate tutor program to an inmate if the inmate had an associate degree or a degree from an institution of higher education before entering the division and worked diligently for at least two years under the inmate tutor program established under Section 501.005, Government Code.

(c) The institutional division may not grant a certificate to an inmate under this section earlier than the second anniversary of the date on which the inmate entered the division, regardless of whether the inmate earns a diploma, certificate, or degree before that date or whether the division determines before that date that the inmate lacks the intellectual capacity to ever earn a diploma or certificate.

(b) The change in law made by the addition of Section 499.055, Government Code, under Subsection (a) of the section, and the ability of inmates to earn certificates qualifying the inmates to accrue good conduct time, applies to an inmate confined in the institutional division of the Texas Department of Criminal Justice on or after the effective date of this article, whether the inmate is confined for an offense committed before, on, or after the effective date of this article.

SECTION 1.07. This article takes effect December 1, 1991.

ARTICLE 2

SECTION 2.01. Section 495.001, Government Code, as revised by Section 10.01, Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 495.001. **AUTHORITY TO CONTRACT.** (a) The board may contract with a private vendor or with the commissioners court of a county for the financing, construction, operation, maintenance, or management of a secure correctional facility.

(b) A facility operated, maintained, and managed under this subchapter by a private vendor or county must:

(1) ~~hold not more than an average daily population of 500 inmates;~~
 [(2)] comply with federal constitutional standards and applicable court orders; and

(2) [(3)] receive and retain, as an individual facility, accreditation from the American Correctional Association.

(c) A facility authorized by this subchapter may be located on private land or on land owned by the state or a political subdivision of the state. The board may accept land donated for that purpose.

(d) ~~[The population requirements imposed by Subsection (b)(1) do not apply to a facility that is under construction or completed before April 14, 1987.~~

[(e)] The board shall give priority to entering contracts under this subchapter that will provide the institutional division with secure regionally based correctional facilities designed to successfully reintegrate inmates into society through preparole, prerelease, work release, and prison industries programs.

SECTION 2.02. Section 495.002, Government Code, as revised by Section 10.01, Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 495.002. **INMATES.** The institutional division may confine ~~[only] minimum, [or] medium, or maximum~~ security inmates in a facility authorized by this subchapter. An inmate confined in a facility authorized by this subchapter remains in the legal custody of the institutional division.

SECTION 2.03. Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 13.11 to read as follows:

Sec. 13.11. **ADDITIONAL REPORTS BY THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE.** (a) In addition to the reports required by Section 13.03 of this article, the Texas Department of Criminal Justice shall perform a cost

analysis of each unit in the institutional division at least once during each eight-year period and file a report of the analysis with the State Auditor.

(b) The department may determine the identity and the exact number of units on which it will perform cost analyses during each year, except that the department shall perform at least four analyses each year and file the reports of the analyses with the State Auditor not later than September 1. The department shall file the first reports required by this section not later than September 1, 1992.

(c) The commission shall conduct a cost comparison review under Section 13.05 of this article for each unit of the institutional division for which a report is filed with the State Auditor under Subsection (b) of this section. If the commission determines that at least the same quality and quantity of service can be purchased at a savings of more than 10 percent, the commission shall notify the department of that fact as required by Section 13.05(b) of this article, and the department shall take the actions required by Section 13.06 of this article.

SECTION 2.04. This article takes effect December 1, 1991.

ARTICLE 3

SECTION 3.01. Section 4(a), Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a)(1) The authority may issue up to \$500 million in general obligation bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions.

(2) The authority may issue up to \$400 million in general obligation bonds, in addition to the amount authorized by Subsection (a)(1) of this section, and distribute bond proceeds to appropriate agencies for the same uses as authorized by Subsection (a)(1) and to the Department of Public Safety for the purchase, repair, and renovation of the Austin Independent School District administration building adjacent to the Department of Public Safety state headquarters, for the purpose of expanding the department's state headquarters' central office building.

(3) The authority may issue up to \$394 million in general obligation bonds, in addition to the amounts authorized by Subsections (a)(1) and (a)(2) of this section, and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new corrections institutions or youth corrections institutions, for major repair or renovation of existing facilities of those institutions, or for major repair or renovation necessary to convert existing state or federal facilities into state corrections institutions.

(4) The bond proceeds may be used to refinance an existing obligation for a purpose described by this subsection. The authority may issue general obligation bonds authorized under Subsection (a)(1) or (a)(2) of this section to refund revenue bonds issued under this Act.

SECTION 3.02. This article takes effect on the date on which the constitutional amendment proposed by S.J.R. 4, 72nd Legislature, 1st Called Session, 1991, takes effect. If that amendment is not approved by the voters, this article has no effect.

ARTICLE 4

SECTION 4.01. Chapter 751, Government Code, as added by Chapter 38, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 751.010 to read as follows:

Sec. 751.010. FEDERAL GRANTS FOR CRIMINAL JUSTICE AGENCIES. (a) The office shall:

(1) monitor and identify federal grants that are available to the Texas Department of Criminal Justice and assist the department in obtaining grants; and

(2) adopt procedures for the department to assist the department in applying for and obtaining federal grants.

(b) The Texas Department of Criminal Justice shall apply and negotiate for federal grants in compliance with procedures adopted by the office.

SECTION 4.02. This article takes effect December 1, 1991.

ARTICLE 5

SECTION 5.01. Subtitle C, Title 11, Local Government Code, is amended by adding Chapter 363 to read as follows:

CHAPTER 363. REGIONAL DETENTION AUTHORITIES

Sec. 363.001. REGIONS. (a) For the purposes of this chapter, the state consists of six regional detention authorities.

(b) Region 1 consists of the following counties:

Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Briscoe, Brown, Callahan, Carson, Castro, Childress, Clay, Cochran, Coleman, Collingsworth, Comanche, Concho, Cottle, Crane, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Ector, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Howard, Hutchinson, Jones, Kent, Kimble, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, McCulloch, Martin, Menard, Midland, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Potter, Randall, Reagan, Roberts, Runnels, Scurry, Shackelford, Sherman, Stephens, Stonewall, Swisher, Taylor, Terry, Throckmorton, Upton, Wheeler, Wichita, Wilbarger, Yoakum, and Young.

(c) Region 2 consists of the following counties:

Anderson, Bowie, Camp, Cass, Cherokee, Collin, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Franklin, Grayson, Gregg, Harrison, Henderson, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Marion, Montague, Morris, Nacogdoches, Navarro, Palo Pinto, Panola, Parker, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Somervell, Tarrant, Titus, Upshur, Van Zandt, Wise, and Wood.

(d) Region 3 consists of the following counties:

Angelina, Austin, Brazoria, Calhoun, Chambers, Colorado, De Witt, Fayette, Fort Bend, Galveston, Goliad, Grimes, Hardin, Harris, Houston, Jackson, Jasper, Jefferson, Karnes, Lavaca, Liberty, Matagorda, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, Victoria, Walker, Waller, Washington, and Wharton.

(e) Region 4 consists of the following counties:

Atascosa, Bandera, Bastrop, Bell, Bexar, Blanco, Bosque, Brazos, Burleson, Burnet, Caldwell, Comal, Coryell, Dimmit, Edwards, Falls, Freestone, Frio, Gillespie, Gonzales, Guadalupe, Hamilton, Hays, Hill, Kendall, Kerr, Kinney, Lampasas, La Salle, Lee, Leon, Limestone, Llano, McLennan, McMullen, Madison, Mason, Maverick, Medina, Milam, Mills, Real, Robertson, San Saba, Travis, Uvalde, Williamson, Wilson, and Zavala.

(f) Region 5 consists of the following counties:

Aransas, Bee, Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Live Oak, Nueces, Refugio, San Patricio, Starr, Webb, Willacy, and Zapata.

(g) Region 6 consists of the following counties:

Brewster, Coke, Crockett, Culberson, El Paso, Hudspeth, Irion, Jeff Davis, Loving, Pecos, Presidio, Reeves, Schleicher, Sterling, Sutton, Terrell, Tom Green, Val Verde, Ward, and Winkler.

Sec. 363.002. DEFINITION. In this chapter, "authority" means a regional detention authority.

Sec. 363.003. DIRECTOR; FUNDING. (a) The constitutional county judges of the counties in an authority shall jointly agree on the appointment of a director for the authority. The director shall manage the operations of the authority.

(b) The authority shall annually submit its request for funds for administrative expenses to the counties it serves. The constitutional county judges shall provide the funds for necessary administrative expenses for each authority based on the population of the authority and the number of prisoners the authority handles.

Sec. 363.004. REGIONAL DETENTION FACILITIES. (a) The Texas Department of Criminal Justice shall provide 6,000 detention facility beds to be apportioned by the department among the authorities on the basis of the relative populations of the authorities.

(b) The authority shall apportion beds in the facility serving the counties comprising the authority on the basis of the relative populations of the counties in the authority, except that if a county does not need all the beds apportioned to the county under this subsection, the authority shall apportion those beds to the other counties until the county shows evidence of need.

(c) The authority shall house defendants who are ordered confined under Section 363.011 in its regional detention facility. If there is no space available in its regional detention facility, an authority may contract with other authorities or any county to provide the jail space.

(d) The Commission on Jail Standards shall establish standards for programs and facilities operated under this chapter. If the commission determines that a regional detention authority complies with those standards, the commission shall pay a per diem to each authority as determined by the General Appropriations Act for each defendant held in a regional detention facility.

(e) If the authority is unable to locate housing for a defendant, the institutional division of the Texas Department of Criminal Justice shall provide the beds to house defendants ordered confined under Section 363.011.

Sec. 363.005. WORK PUNISHMENT PROGRAM ESTABLISHED. The authorities shall establish work punishment programs in their regions to implement punishment imposed by courts on defendants convicted of fourth-, fifth-, and sixth-degree felonies.

Sec. 363.006. LABOR FOR PUBLIC GOOD. An authority shall use the labor of defendants participating in a work punishment program established under this chapter only on projects that benefit the state, a political subdivision of the state, or nonprofit organizations that serve the public good by assisting the poor or performing other services that benefit the state or its citizens.

Sec. 363.007. LIABILITY. An officer or employee of an authority or a community supervision and corrections department is not liable for damages arising from an act or failure to act by the officer or employee in connection with a work punishment program established under this chapter if the act or failure to act:

(1) was performed in an official capacity; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

Sec. 363.008. CUSTODY STATUS. Defendants participating in a work punishment program established under this chapter are in the custody of an authority only during the hours in which they actually are working in the program.

Sec. 363.009. MINIMUM HOURS. An authority may not require a defendant to work less than 10 hours during any week while the defendant is participating in the program.

Sec. 363.010. RULES. An authority shall adopt rules for the administration of the program and the conduct of defendants participating in the program.

Sec. 363.011. RULES VIOLATION; HEARING; PENALTY. (a) A defendant who violates a rule adopted under Section 363.010 may be confined in a county jail or a regional detention facility for a term not to exceed 30 days, after a hearing conducted as near as possible to the place where an alleged violation occurred and by the director of the authority or the director's designee. The director

or the director's designee shall limit the hearing to a determination as to whether the defendant violated the rule.

(b) A defendant confined in a punishment facility under this section earns, in addition to credit for the hours worked by the defendant while confined, one hour's credit toward completion of the defendant's sentence for each 24 hours confined in the facility.

(c) A defendant who violates a rule adopted under Section 363.010 and who has been previously confined two or more times in a punishment facility for a violation of a rule adopted under that section may be confined in an institutional division punishment facility for a term not to exceed six months.

SECTION 5.02. Section 12.04(a), Penal Code, is amended to read as follows:

(a) Felonies are classified according to the relative seriousness of the offense into seven [four] categories:

- (1) capital felonies;
- (2) felonies of the first degree;
- (3) felonies of the second degree;
- (4) felonies of the third degree;
- (5) felonies of the fourth degree;
- (6) felonies of the fifth degree;
- (7) felonies of the sixth degree.

SECTION 5.03. Subchapter C, Chapter 12, Penal Code, is amended by adding Sections 12.35, 12.36, and 12.37 to read as follows:

Sec. 12.35. FOURTH-DEGREE FELONY PUNISHMENT. (a) An individual adjudged guilty of a felony of the fourth degree shall be punished by being required to participate in a work punishment program operated by a regional detention authority under Chapter 363, Local Government Code, for 2,500 hours.

(b) In addition to required participation in a work punishment program, an individual adjudged guilty of a felony of the fourth degree may be punished by a fine not to exceed \$10,000.

Sec. 12.36. FIFTH-DEGREE FELONY PUNISHMENT. (a) An individual adjudged guilty of a felony of the fifth degree shall be punished by being required to participate in a work punishment program operated by a regional detention authority under Chapter 363, Local Government Code, for 750 hours.

(b) In addition to required participation in a work punishment program, an individual adjudged guilty of a felony of the fifth degree may be punished by a fine not to exceed \$10,000.

Sec. 12.37. SIXTH-DEGREE FELONY PUNISHMENT. (a) An individual adjudged guilty of a felony of the sixth degree shall be punished by being required to participate in a work punishment program operated by a regional detention authority under Chapter 363, Local Government Code, for 300 hours.

(b) In addition to required participation in a work punishment program, an individual adjudged guilty of a felony of the sixth degree may be punished by a fine not to exceed \$5,000.

SECTION 5.04. Section 12.42, Penal Code, is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e) If it is shown on the trial of a sixth-degree felony that the defendant has previously been convicted of any felony, the defendant shall be punished for a fifth-degree felony.

(f) If it is shown on the trial of a fifth-degree felony that the defendant has previously been finally convicted of any felony, the defendant shall be punished for a fourth-degree felony.

(g) If it is shown on the trial of a fourth-degree felony that the defendant has previously been finally convicted of any felony, the defendant shall be punished for a third-degree felony.

(h) A conviction of an offense punishable as a felony of the fourth, fifth, or sixth degree is a final conviction of a felony offense for the purposes of Subsections (a), (b), (c), or (d) of this section, regardless of whether the sentence is probated.

SECTION 5.05. Sections 16.02(d) and (i), Penal Code, are amended to read as follows:

(d)(1) Except as provided by Subsection (c) of this section, a person commits an offense if he:

(A) intentionally manufactures, assembles, possesses, or sells an electronic, mechanical, or other device knowing or having reason to know that the device is designed primarily for nonconsensual interception of wire, electronic, or oral communications and that the device or a component of the device has been or will be used for an unlawful purpose; or

(B) places in a newspaper, magazine, handbill, or other publication an advertisement of an electronic, mechanical, or other device:

(i) knowing or having reason to know that the device is designed primarily for nonconsensual interception of wire, electronic, or oral communications;

(ii) promoting the use of the device for the purpose of nonconsensual interception of wire, electronic, or oral communications; or

(iii) knowing or having reason to know that the advertisement will promote the use of the device for the purpose of nonconsensual interception of wire, electronic, or oral communications.

(2) An offense under Subdivision (1) of this subsection is [punishable by confinement in the Texas Department of Corrections for a term of not more than five years or] a felony of the sixth degree [fine of not more than \$10,000, or both].

(i)(1) A person commits an offense if, knowing that a government attorney or an investigative or law enforcement officer has been authorized or has applied for authorization to intercept wire, electronic, or oral communications, the person obstructs, impedes, prevents, gives notice to another of, or attempts to give notice to another of the interception.

(2) An offense under this subsection is [punishable by confinement in the Texas Department of Corrections for a term of not more than five years or by] a felony of the sixth degree [fine of not more than \$10,000, or both].

SECTION 5.06. Section 16.03(e), Penal Code, is amended to read as follows:
(e) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.07. Section 16.05(d), Penal Code, is amended to read as follows:

(d) Except as provided by Subsections (e) and (f) of this section, an offense under Subsection (b) of this section is [punishable by confinement in the Texas Department of Corrections for a term of not more than five years or] a felony of the sixth degree [fine not to exceed \$10,000, or both].

SECTION 5.08. Section 25.01(e), Penal Code, is amended to read as follows:
(e) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.09. Section 25.03(d), Penal Code, is amended to read as follows:
(d) An offense under this section is a felony of the fifth [third] degree.

SECTION 5.10. Section 25.031(b), Penal Code, is amended to read as follows:
(b) An offense under this section is a felony of the fifth [third] degree.

SECTION 5.11. Section 25.05(g), Penal Code, is amended to read as follows:

(g) An offense under this section is a felony of the sixth [third] degree if the actor:

(1) has been convicted one or more times under this section; or

(2) commits the offense while residing in another state.

SECTION 5.12. Sections 28.03(b) and (f), Penal Code, are amended to read as follows:

- (b) Except as provided by Subsection (f), an offense under this section is:
- (1) a Class C misdemeanor if:
 - (A) the amount of pecuniary loss is less than \$20; or
 - (B) except as provided in Subdivision (4)(B) of this subsection, it causes substantial inconvenience to others;
 - (2) a Class B misdemeanor if the amount of pecuniary loss is \$20 or more but less than \$200;
 - (3) a Class A misdemeanor if the amount of pecuniary loss is \$200 or more but less than \$750;
 - (4) a felony of the sixth [third] degree if:
 - (A) the amount of pecuniary loss is \$750 or more but less than \$20,000;
 - (B) regardless of the amount of pecuniary loss, the actor causes in whole or in part impairment or interruption of public communications, public transportation, public water, gas, or power supply, or other public service, or diverts, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for such purpose, any public communications, public water, gas, or power supply;
 - (C) regardless of the amount of pecuniary loss, the property is one or more head of cattle, horses, sheep, swine, or goats;
 - (D) regardless of the amount of pecuniary loss, the property was a fence used for the production of cattle, horses, sheep, swine, or goats; or
 - (E) regardless of the amount of pecuniary loss, the damage or destruction was inflicted by branding one or more head of cattle, horses, sheep, swine, or goats.
 - (5) a felony of the fifth [second] degree if the amount of the pecuniary loss is \$20,000 or more.
- (f) An offense under this section is:
- (1) a felony of the sixth [third] degree if the damage or destruction is inflicted on a place of worship or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is \$20 or more but less than \$20,000; or
 - (2) a felony of the fifth [second] degree if the damage or destruction is inflicted on a place of worship or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is \$20,000 or more.

SECTION 5.13. Sections 28.07(c) and (e), Penal Code, are amended to read as follows:

- (c) An offense under Subsection (b)(1) of this section is a Class B misdemeanor unless the person causes bodily injury to another, in which event the offense is a felony of the sixth [third] degree.
- (e) An offense under Subsection (b)(2)(B), (b)(2)(C), or (b)(2)(D) of this section is a Class C misdemeanor unless the person causes pecuniary loss, in which event the offense is:
- (1) a Class B misdemeanor if the amount of pecuniary loss is \$20 or more but less than \$200;
 - (2) a Class A misdemeanor if the amount of pecuniary loss is \$200 or more but less than \$750;
 - (3) a felony of the sixth [third] degree if the amount of pecuniary loss is \$750 or more but less than \$20,000; or
 - (4) a felony of the fifth [second] degree if the amount of the pecuniary loss is \$20,000 or more.

SECTION 5.14. Section 31.03(e), Penal Code, as amended by S.B. 4, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) Except as provided by Subsection (f) of this section, an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$20;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$20 or more but less than \$200; or

(B) the value of the property stolen is less than \$20 and the defendant has previously been convicted of any grade of theft;

(3) a Class A misdemeanor if:

(A) the value of the property stolen is \$200 or more but less than \$750; or

(B) the property stolen is one firearm, as defined by Section 46.01 of this code, and is valued at less than \$400;

(4) a felony of the sixth [third] degree if:

(A) the value of the property stolen is \$750 or more but less than \$20,000, or the property is one or more head of cattle, horses, sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave;

(C) the property stolen is one firearm, as defined by Section 46.01 of this code, and is valued at more than \$400;

(D) the property stolen is two or more firearms, as defined by Section 46.01 of this code; or

(E) the value of the property stolen is less than \$750 and the defendant has been previously convicted two or more times of any grade of theft;

(5) a felony of the fifth [second] degree if:

(A) the value of the property stolen is less than \$100,000 and the property is:

(i) combustible hydrocarbon natural or synthetic natural gas, or crude petroleum oil;

(ii) equipment designed for use in exploration for or production of natural gas or crude petroleum oil; or

(iii) equipment designed for use in remedial or diagnostic operations on gas or crude petroleum oil wells;

(B) the value of the property stolen is \$20,000 or more but less than \$100,000; or

(C) the value of the property is less than \$100,000 and the property was unlawfully appropriated or attempted to be unlawfully appropriated by threat to commit a felony offense against the person or property of the person threatened or another or to withhold information about the location or purported location of a bomb, poison, or other harmful object that threatens to harm the person or property of the person threatened or another person; or

(6) a felony of the fourth [first] degree if:

(A) the value of the property stolen is \$100,000 or more;

or

(B) the value of the property is \$100,000 or more and the property was unlawfully appropriated or attempted to be unlawfully appropriated in the manner described by Subdivision (5)(C) of this subsection.

SECTION 5.15. Section 31.04(e), Penal Code, is amended to read as follows:

(e) An offense under this section is:

(1) a Class C misdemeanor if the value of the service stolen is less than \$20;

(2) a Class B misdemeanor if the value of the service stolen is \$20 or more but less than \$200;

(3) a Class A misdemeanor if the value of the service stolen is \$200 or more but less than \$750;

(4) a felony of the sixth [third] degree if the value of the service stolen is \$750 or more but less than \$20,000;

(5) a felony of the fifth [second] degree if the value of the service stolen is \$20,000 or more.

SECTION 5.16. Section 31.05(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.17. Section 31.07(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.18. Section 31.11(e), Penal Code, as added by Chapter 113, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) An offense under this section is a felony of the sixth [third] degree if the property involved is:

(1) equipment designed for exploration or production of natural gas or crude oil;

(2) equipment designed for remedial or diagnostic operations on gas or crude oil wells;

(3) a vehicle or part of a vehicle;

(4) a tractor, farm implement, unit of special mobile equipment, or a unit of off-road construction equipment not subject to the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes);

(5) an aircraft, boat, or part of an aircraft or boat; or

(6) a firearm or part of a firearm.

SECTION 5.19. Section 32.31(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.20. Sections 32.33(e) and (f), Penal Code, are amended to read as follows:

(e) If the actor removes the property, the offense is a felony of the sixth [third] degree.

(f) A person who is a debtor under a security agreement, and who does not have a right to sell or dispose of the secured property or is required to account to the secured party for the proceeds of a permitted sale or disposition, commits an offense if the person sells or otherwise disposes of the secured property, or does not account to the secured party for the proceeds of a sale or other disposition as required, with intent to appropriate (as defined in Chapter 31 of this code) the proceeds or value of the secured property. A person is presumed to have intended to appropriate proceeds if the person does not deliver the proceeds to the secured party or account to the secured party for the proceeds before the 11th day after the day that the secured party makes a lawful demand for the proceeds or account. An offense under this subsection is:

(1) a Class A misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of less than \$10,000;

(2) a felony of the sixth [third] degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$10,000 or more.

SECTION 5.21. Section 32.36(f), Penal Code, is amended to read as follows:

(f) An offense under Subsection (b)(1), (b)(2), or (b)(3) of this section is:

(1) a felony of the sixth [third] degree if the value of the motor vehicle is less than \$20,000; or

(2) a felony of the fifth [second] degree if the value of the motor vehicle is \$20,000 or more.

SECTION 5.22. Section 32.43(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.23. Section 32.44(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the sixth [third] degree if the actor's conduct is in connection with betting or wagering on the contest.

SECTION 5.24. Section 32.441(c), Penal Code, is amended to read as follows:

(e) An offense under Subsection (a) of this section is a Class A misdemeanor.

An offense under Subsection (b) of this section is a felony of the sixth [third] degree.

SECTION 5.25. Section 32.45(c), Penal Code, as amended by S.B. 4, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(c) An offense under this section is:

(1) a Class A misdemeanor if the value of the property misapplied is less than \$200;

(2) a felony of the sixth [third] degree if the value of the property is \$200 or more but less than \$10,000;

(3) a felony of the fifth [second] degree if the value of the property is \$10,000 or more but less than \$100,000; or

(4) a felony of the fourth [first] degree if the value of the property is \$100,000 or more.

SECTION 5.26. Section 32.46(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.27. Section 32.47(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the sixth [third] degree if the writing:

(1) is a will or codicil of another, whether or not the maker is alive or dead and whether or not it has been admitted to probate; or

(2) is a deed, mortgage, deed of trust, security instrument, security agreement, or other writing for which the law provides public recording or filing, whether or not the writing has been acknowledged.

SECTION 5.28. Section 32.50(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.29. Section 32.72(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the fifth degree [punishable by a fine of not more than \$100,000, imprisonment for not more than 10 years, or both].

SECTION 5.30. Section 33.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a:

(1) felony of the fifth [second] degree if the value of the loss or damage caused by the conduct is \$20,000 or more;

(2) felony of the sixth [third] degree if the value of the loss or damage caused by the conduct is \$750 or more but less than \$20,000; or

(3) Class A misdemeanor if the value of the loss or damage caused by the conduct is \$200 or more but less than \$750.

SECTION 5.31. Section 36.02(e), Penal Code, as added by Section 4.02, S.B. 1, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) An offense under this section is a felony of the fourth [second] degree.

SECTION 5.32. Section 36.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor unless the coercion is a threat to commit a felony, in which event it is a felony of the sixth [third] degree.

SECTION 5.33. Section 36.05(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.34. Section 37.10(c), Penal Code, as amended by Chapter 113, Acts of the 72nd Legislature, Regular Session, 1991, and Section 37.10(d), as added

by Chapter 113, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(c) Except as provided in Subsection (d) of this section, an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the sixth [third] degree.

(d) An offense under this section is a felony of the sixth [third] degree if it is shown on the trial of the offense that the governmental record was a license, certificate, permit, seal, title, or similar document issued by government, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the fifth [second] degree.

SECTION 5.35. Section 37.11(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor unless the person impersonated a peace officer, in which event it is a felony of the sixth [third] degree.

SECTION 5.36. Section 38.11(f), Penal Code, is amended to read as follows:

(f) An offense under this section is a felony of the sixth [third] degree if the offense for which the actor's appearance was required is classified as a felony.

SECTION 5.37. Chapter 38, Penal Code, is amended by adding Section 38.112 to read as follows:

Sec. 38.112. ESCAPE FROM WORK PUNISHMENT PROGRAM. (a) A person commits an offense if, while actively participating in a work punishment program as punishment for conviction of a fourth-, fifth-, or sixth-degree felony, the person leaves the work detail without the permission of an employee of the institutional division authorized to supervise program participants or, if the program is operated under contract by a community supervision and corrections department, without the permission of an authorized employee of the department.

(b) An offense under this section is a felony of the third degree.

SECTION 5.38. Section 38.12(d), Penal Code, is amended to read as follows:

(d) An offense under Subsection (a)(3) or (a)(4) of this section is a felony of the sixth [third] degree if it is shown on the trial of the offense that:

(1) the defendant has previously been convicted under Subsection (a)(3) or (a)(4) of this section; and

(2) the solicitation is performed in whole or in part:

(A) in a hospital, funeral establishment, or public or private cemetery or at the scene of an accident;

(B) by using a person who is an employee of:

(i) this state;

(ii) a political subdivision of this state, including a county, municipality, or special purpose district or authority; or

(iii) a hospital or funeral establishment; or

(C) by impersonating a clergyman, public employee, or emergency assistance worker or volunteer.

SECTION 5.39. Section 39.01(c), Penal Code, is amended to read as follows:

(c) An offense under Subsection (a)(2) of this section is:

(1) a Class C misdemeanor if the value of the use of the thing misapplied is less than \$20;

(2) a Class B misdemeanor if the value of the use of the thing misapplied is \$20 or more but less than \$200;

(3) a Class A misdemeanor if the value of the use of the thing misapplied is \$200 or more but less than \$750;

(4) a felony of the sixth [third] degree if the value of the use of the thing misapplied is \$750 or more but less than \$20,000; and

(5) a felony of the fifth [second] degree if the value of the use of the thing misapplied is \$20,000 or more.

SECTION 5.40. Section 39.03(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.41. Section 42.06(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor unless the false report is of an emergency involving public communications, public transportation, public water, gas, or power supply or other public service, in which event the offense is a felony of the sixth [third] degree.

SECTION 5.42. Section 42.09(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fifth [third] degree if a place of worship or burial is desecrated.

SECTION 5.43. Section 42.111(f), Penal Code, is amended to read as follows:

(f) An offense under Subdivision (1) or (5) of Subsection (a) of this section is a Class A misdemeanor. An offense under Subdivision (2), (3), or (4) of Subsection (a) of this section is a felony of the sixth [third] degree. An offense under Subdivision (6) of Subsection (a) of this section is a Class C misdemeanor.

SECTION 5.44. Section 42.13(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class B misdemeanor unless, as a result of the commission of the offense, serious bodily injury or property loss in excess of \$1,000 occurs, in which event the offense is a felony of the sixth [third] degree.

SECTION 5.45. Section 43.04(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.46. Section 43.23(b), Penal Code, is amended to read as follows:

(b) An offense under Subsection (a) of this section is a felony of the sixth [third] degree.

SECTION 5.47. Section 46.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the sixth [third] degree if it occurs on any premises licensed or issued a permit by this state for the sale or service of alcoholic beverages.

SECTION 5.48. Section 46.04(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a sixth [third] degree felony.

SECTION 5.49. Section 46.10(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.50. Section 47.03(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.51. Section 47.04(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.52. Section 47.05(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.53. Section 47.06(e), Penal Code, is amended to read as follows:

(e) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.54. Section 48.02(d), Penal Code, is amended to read as follows:

(d) A violation of this section is a felony of the sixth [third] degree.

SECTION 5.55. Section 481.121(b), Health and Safety Code, is amended to read as follows:

(b) An offense under Subsection (a) is:

(1) a Class B misdemeanor if the amount of marihuana possessed is two ounces or less;

(2) a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;

(3) a felony of the sixth [third] degree if the amount of marihuana possessed is five pounds or less but more than four ounces; and

(4) a felony of the fifth [second] degree if the amount of marihuana possessed is 50 pounds or less but more than 5 pounds.

SECTION 5.56. Sections 481.125(e) and (f), Health and Safety Code, are amended to read as follows:

(e) An offense under Subsection (b) is a Class A misdemeanor, unless it is shown on the trial of a defendant that the defendant has previously been convicted under Subsection (b) or (c), in which event the offense is a felony of the sixth [third] degree.

(f) An offense under Subsection (c) is a felony of the sixth [third] degree.

SECTION 5.57. Section 481.127(b), Health and Safety Code, is amended to read as follows:

(b) An offense under this section is a felony of the sixth [third] degree.

SECTION 5.58. Section 481.128(d), Health and Safety Code, as amended by S.B. 314, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(d) An offense under Subsection (a) is a felony of the fifth [second] degree, unless it is shown on the trial of a defendant that the defendant has previously been convicted under Subsection (a), in which event the offense is a felony of the fourth [first] degree.

SECTION 5.59. Sections 481.129(d), (f), and (g), Health and Safety Code, are amended to read as follows:

(d) An offense under Subsection (a) is:

(1) a felony of the fifth [second] degree if the controlled substance that is the subject of the offense is listed in Schedule I or II;

(2) a felony of the sixth [third] degree if the controlled substance that is the subject of the offense is listed in Schedule III or IV; and

(3) a Class A misdemeanor if the controlled substance that is the subject of the offense is listed in Schedule V.

(f) An offense under Subsection (c)(1) is:

(1) a felony of the fifth [second] degree if the defendant delivers:

(A) a prescription form; or

(B) a prescription for a controlled substance listed in

Schedule II; and

(2) a felony of the sixth [third] degree if the defendant delivers a prescription for a controlled substance listed in Schedule III, IV, or V.

(g) An offense under Subsection (c)(2) is:

(1) a felony of the sixth [third] degree if the defendant possesses:

(A) a prescription form; or

(B) a prescription for a controlled substance listed in

Schedule II or III; and

(2) a Class B misdemeanor if the defendant possesses a prescription for a controlled substance listed in Schedule IV or V.

SECTION 5.60. Article 42.12, Code of Criminal Procedure, is amended by adding Section 28 to read as follows:

Sec. 28. WORK PUNISHMENT PROBATION. (a) A court may probate all or part of a work punishment sentence in the same manner as other sentences are probated under this article. The court may impose as a condition of probation on a defendant whose sentence is probated under this section any condition of probation permitted in a felony case under this chapter, including conditions requiring the defendant to participate in substance abuse treatment programs or education programs and conditions requiring the defendant to make restitution to a victim of the offense.

(b) A period of probation imposed under this section may not extend past the date on which the defendant fulfills the work punishment requirement established in the sentence, but on a showing that the defendant has diligently participated in and successfully completed a program ordered as a condition of probation, the court may terminate the probation and discharge the defendant.

SECTION 5.61. Article 42.13, Code of Criminal Procedure, is amended by adding Sections 13 and 14 to read as follows:

Sec. 13. PERFORMANCE REWARDS. (a) The board shall develop, adopt, and implement a performance rewards program to reward each county served by a department that successfully diverts offenders from confinement in the institutional division. In developing the program, the board shall consider the following factors for each county served by a department:

- (1) the institutional division commitment rate in the county;
- (2) the probation revocation rate in the county, with separate rates calculated for revocations based on technical grounds and revocations based on grounds other than technical; and
- (3) the commitment rate and revocation rate for the 36 months immediately preceding the date on which a payment is to be made under this section.

(b) On January 1 of each year, the division shall make a payment to a county served by a department on the basis of the performance record of the county during the previous state fiscal year in diverting offenders from confinement in the institutional division, as documented by information requested by the division and provided by the department serving the county. Each department shall provide the information for each county served by the department in a format designed by the division.

Sec. 14. PAYMENTS BARRED. A county that on or after December 1, 1991, is or has been a party to a suit against the state or a state agency, the subject of which is the reimbursement of the county for the confinement of inmates in the county jail who are awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision, and that is not a signatory to a formal written agreement that resolves or abates the suit is not entitled to any payment from the division under Section 11 or Section 13 of this article.

SECTION 5.62. In a criminal action pending on or commenced on or after the effective date of this article, for an offense committed before the effective date, the defendant, if adjudged guilty, shall be assessed punishment under this article if the defendant so elects by written motion filed with the trial court before the sentencing hearing begins.

SECTION 5.63. This article takes effect December 1, 1991.

ARTICLE 6

SECTION 6.01. Chapter 37, Code of Criminal Procedure, is amended by adding Article 37.15 to read as follows:

Art. 37.15. TEXAS SENTENCING AND CORRECTIONS COMMISSION

Sec. 1. CREATION. The Texas Sentencing and Corrections Commission is created.

Sec. 2. DUTIES. The commission shall study the punishments prescribed for misdemeanor and felony offenses in this state, sentencing practices in criminal courts, and the effect of jail and prison overcrowding and lenient parole laws on sentences actually served by defendants convicted of criminal offenses. After completing the study, the commission shall propose legislation to:

- (1) revise punishments for criminal offenses, basing the revision on:
 - (A) a narrower range of punishment for offenses; and
 - (B) proportional punishment, with the harshest punishments reserved for those offenders who have caused the greatest physical harm to individuals or harm to society;
- (2) adequately expand prisons, jails, and community corrections facilities to confine those convicted defendants who pose the most significant threat to society; and

(3) revise probation and parole laws to ensure that:

(A) those defendants convicted of offenses that cause the greatest harm to society or pose the greatest threat of future harm to society serve a significant portion of their sentences in actual confinement;

(B) evaluations, based on supervisory need rather than capacity limitations, are made on each defendant released on probation or parole to determine the appropriate level of supervision for the defendant or the desirability of placing the defendant in special probation or parole programs; and

(C) good time credited towards parole or early release is earned through participation in education, job training, and substance abuse treatment programs designed to provide the defendant the capability of acquiring gainful employment on release; and

(4) adequately expand the probation and parole systems, including, as appropriate, special supervision and treatment programs within those systems, to allow each defendant released on probation or parole to receive supervision or treatment based on correctional needs rather than on capacity limitations.

Sec. 3. COMPOSITION. (a) The commission is composed of 25 members, 15 of whom are appointed by the governor, five of whom are members of the senate appointed by the lieutenant governor, and five of whom are members of the house of representatives appointed by the speaker of the house of representatives. In making appointments under this section, the governor shall attempt to ensure participation by minorities on the commission, including females, African-Americans, Hispanic-Americans, Native Americans, and Asian Americans. Each member serves at the pleasure of the official by whom the member is appointed.

(b) All members of the commission shall be generally experienced in criminal justice matters. In addition, there shall be at least one member of the commission experienced in each of the following categories:

- (1) as a trial judge hearing criminal cases;
- (2) as a prosecutor of criminal cases;
- (3) as a criminal justice defense lawyer;
- (4) in the administration of a statewide correction system;
- (5) in the operation of a county jail; and
- (6) as an advocate of crime victims' rights.

(c) The governor shall designate one member of the commission as chairman of the commission, and the member serves as chairman at the pleasure of the governor.

Sec. 4. REIMBURSEMENT. Members of the commission are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties.

Sec. 5. STAFF; CONTRACTS. The commission may employ staff as necessary for data collection, analysis, and research and other support services and may contract for those services with agencies of the state or private consultants.

Sec. 6. SUBMISSION. The commission shall submit the proposed legislation described by Section 2 of this article to the governor, the Texas Department of Criminal Justice, and the Legislative Criminal Justice Board not later than June 1, 1992.

Sec. 7. EXPIRATION. The commission is abolished and this article expires on June 1, 1993.

SECTION 6.02. This article takes effect December 1, 1991.

ARTICLE 7

SECTION 7.01. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.20 to read as follows:

Art. 42.20. RESTITUTION LIENS

Sec. 1. RESTITUTION ORDER REQUIRED. A court that determines that the victim of a criminal offense is entitled to restitution from a defendant convicted of the offense shall order the defendant to pay restitution.

Sec. 2. LIEN ESTABLISHED. The victim of a criminal offense has a restitution lien to secure the amount of restitution to which the victim is entitled under the order of a court in a criminal case.

Sec. 3. PERFECTION. A restitution lien is perfected when an affidavit to perfect the lien is filed in accordance with this article.

Sec. 4. JUDGMENT REQUIRED. An affidavit to perfect a restitution lien may not be filed under this article until a court has ordered restitution.

Sec. 5. PERSONS WHO MAY FILE. The following persons may file an affidavit to perfect a restitution lien:

(1) the attorney representing the state in a criminal case in which a victim is determined by the court to be entitled to restitution; or

(2) a victim in a criminal case who is determined by the court to be entitled to restitution.

Sec. 6. AFFIDAVIT. An affidavit to perfect a restitution lien must be signed by the attorney representing the state or a magistrate and must contain:

(1) the name and date of birth of the defendant whose property or other interests are subject to the lien;

(2) the residence or principal place of business of the person named in the lien, if known;

(3) the criminal proceeding giving rise to the lien, including the name of the court, the name of the case, and the court's file number for the case;

(4) the name and address of the attorney representing the state and the name and address of the person entitled to restitution;

(5) a statement that the notice is being filed under this article;

(6) the amount of restitution the defendant has been ordered to pay by the court; and

(7) a statement that the amount of restitution owed at any one time may be less than the original balance and that the outstanding balance is reflected in the records of the clerk of the court hearing the criminal proceeding giving rise to the lien.

Sec. 7. FILING. (a) An affidavit to perfect a restitution lien must be filed with a county clerk.

(b) A filing fee or other charge may not be required as a condition for the filing of an affidavit to perfect a restitution lien.

(c) A person who files an affidavit to perfect a restitution lien under this article shall notify in writing the clerk of the court entering the judgment creating the lien of the county clerk with which the affidavit was filed.

Sec. 8. SUBJECT PROPERTY. A perfected restitution lien extends to:

(1) any interest of the defendant in real property located in a county in which the lien is filed; or

(2) any interest of the defendant in personal property.

Sec. 9. PRIORITY. The perfection of a restitution lien under this article is notice of the claim to all persons dealing with the defendant or the property identified in the affidavit perfecting the lien. A perfected lien in favor of a victim is superior and prior to the claim or interest of any other person, other than a person who:

(1) possesses a valid lien, or security interest, perfected before the perfection of the restitution lien;

(2) acquires an interest in the property, if personal property, before the filing of the restitution lien, to the extent that the person gives value; or

(3) acquires and records an interest in the property, if real property, before the perfection of the restitution lien, to the extent that the person gives value.

Sec. 10. EXPIRATION; RECORDS. A restitution lien expires when the defendant satisfies the judgment creating the restitution lien. The clerk of the court entering the judgment creating the restitution lien must maintain a record of the outstanding balance of restitution owed. If the defendant satisfies the judgment, the clerk shall immediately notify each county clerk with whom the affidavit perfecting the restitution lien was filed, as indicated by notice received by the clerk under Section 7(c) of this article.

SECTION 7.02. Article 56.02, Code of Criminal Procedure, is amended by adding Subsections (e) and (f) to read as follows:

(e) A victim of an offense may request from the attorney representing the state an explanation as to why the attorney:

(1) failed to prosecute a case against a defendant charged with an offense against the victim;

(2) entered into a plea-bargain agreement with the defendant that reduced the offense with which the defendant was originally charged; or

(3) prosecuted the offense but failed to obtain a conviction in the case.

(f) An attorney representing the state must provide a written explanation to a victim requesting an explanation under Subsection (e) of this article not later than the 30th day after the date the attorney representing the state receives the request. The attorney representing the state shall file with the district clerk a copy of all requests received by the attorney under this article and all responses made by the attorney. The district clerk shall make available for public inspection copies of requests and responses received by the clerk under this subsection, and may permit any person to make copies of the copies. The district clerk may charge a reasonable fee for copying a copy under this subsection.

SECTION 7.03. A restitution lien established under Article 42.20, Code of Criminal Procedure, as added by this article, arises only from a judgment in a criminal case entered on or after the effective date of this article.

SECTION 7.04. This article takes effect December 1, 1991.

ARTICLE 8

SECTION 8.01. Article 42.12, Code of Criminal Procedure, is amended by adding Section 28 to read as follows:

Sec. 28. PROGRAM TO ASSESS AND ENHANCE PROBATIONER'S EDUCATIONAL AND VOCATIONAL SKILLS. (a) A community supervision and corrections department, with the assistance of public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities, may establish a developmental program for a probationer under the supervision of the department on the basis of information developed under Section 11(g) of this article, as added by Chapter 260, Acts of the 71st Legislature, Regular Session, 1989.

(b) The developmental program may provide the probationer with the educational and vocational training necessary to:

(1) meet the average skill level required under Section 11(g) of this article, as added by Chapter 260, Acts of the 71st Legislature, Regular Session, 1989; and

(2) maintain employment while under the supervision of the department, to lessen the likelihood that the probationer will commit additional offenses.

(c) To decrease expenditures by community supervision and corrections departments for the educational and vocational skills assessment and enhancement program established under this section, the Texas Department of Commerce shall provide assistance to community supervision and corrections departments, public

school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities for obtaining financial assistance through the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and other applicable programs of public or private entities.

SECTION 8.02. Article 42.18, Code of Criminal Procedure, is amended by adding Section 27 to read as follows:

Sec. 27. PROGRAM TO ASSESS AND ENHANCE EDUCATIONAL AND VOCATIONAL SKILLS. (a) The pardons and paroles division, with the assistance of public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities, may establish a developmental program on the basis of information developed under Section 8(k) of this article for an inmate to be released to the supervision of the division.

(b) The developmental program may provide the inmate with the educational and vocational training necessary to:

(1) meet the average skill level required under Section 8(k) of this article; and

(2) acquire employment while under the supervision of the pardons and paroles division, to lessen the likelihood that the inmate will return to the institutional division.

(c) To decrease state expenditures for the educational and vocational skills assessment and enhancement program established under this section, the Texas Department of Commerce shall provide assistance to the pardons and paroles division, public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities for obtaining financial assistance through the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and other applicable programs of public or private entities.

(d) The pardons and paroles division shall establish a developmental program similar to the program described by Subsection (a) of this section for inmates released from the institutional division who are not to be supervised by the division.

SECTION 8.03. This article takes effect December 1, 1991.

ARTICLE 9

SECTION 9.01. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.48 to read as follows:

Sec. 12.48. PENALTY IF CRIME COMMITTED BY MINOR FOR WHOM ACTOR IS CRIMINALLY RESPONSIBLE. (a) Except as provided by Subsection (c) of this section, the punishment prescribed for an offense is increased in the manner provided by Subsection (b) of this section if it is shown on the trial of the offense that:

(1) the defendant is guilty of the offense because the defendant is criminally responsible for the conduct of another under Section 7.02 of this code;

(2) the defendant was 19 years of age or older at the time the person committed the conduct; and

(3) the person for whose conduct the defendant is criminally responsible was younger than 17 years of age at the time the person committed the conduct.

(b) If a defendant described by Subsection (a) of this section is convicted of a felony of the first degree, the minimum term of confinement otherwise prescribed for the offense is increased from five years to 10 years. If the defendant is convicted of an offense other than a capital felony or a felony of the first degree, the punishment prescribed for the offense is increased to the punishment prescribed for the next highest category of offense.

(c) This section does not apply to an offense for which the punishment otherwise prescribed is the punishment for a capital felony.

SECTION 9.02. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1081 to read as follows:

Sec. 481.1081. PENALTY IF CRIME COMMITTED BY MINOR FOR WHOM ACTOR IS CRIMINALLY RESPONSIBLE. (a) The punishment prescribed for an offense under this subchapter is increased in the manner provided by Subsection (b) if it is shown on the trial of the offense that:

(1) the defendant is guilty of the offense because the defendant is criminally responsible for the conduct of another under Section 7.02, Penal Code;

(2) the defendant was 19 years of age or older at the time the person committed the conduct; and

(3) the person for whose conduct the defendant is criminally responsible was younger than 17 years of age at the time the person committed the conduct.

(b) If a defendant described by Subsection (a) is convicted of a felony of the first degree or an aggravated felony, the minimum term of confinement otherwise imposed for the offense is increased by five years. If the defendant is convicted of an offense other than a felony of the first degree or an aggravated felony, the punishment prescribed for the offense is increased to the punishment prescribed for the next highest category of offense.

SECTION 9.03. (a) The change in law made by this article applies only to the punishment for an offense committed on or after the effective date of this article. For purposes of this section, an offense is committed before the effective date of this article if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 9.04. This article takes effect December 1, 1991.

ARTICLE 10

SECTION 10.01. Section 1, Article 38.33, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. The court shall order that a defendant who is convicted of a felony or a misdemeanor offense that is punishable by confinement in jail, have ~~[place]~~ a thumbprint [fingerprint] of the defendant's right thumb rolled [index finger] legibly on the judgment or the docket sheet in the case. The court shall order a defendant who is placed on probation under Section 5 ~~[3d or 10A]~~ of Article 42.12, Code of Criminal Procedure, for an offense described by this section to have [place] a thumbprint [fingerprint] of the defendant's right thumb rolled [index finger] legibly on the order placing the defendant on probation. If the defendant does not have a right thumb, the defendant must have a thumbprint of the defendant's left thumb rolled legibly on the judgment, order, or docket sheet. The defendant must have a fingerprint of the defendant's index finger rolled legibly on the judgment, order, or docket sheet if the defendant does not have a right thumb or a left thumb. The judgment, order, or docket sheet must contain a statement that describes from which thumb or finger the print was taken, unless a rolled 10-finger print set was taken. A clerk or bailiff of the court or other person qualified to take fingerprints shall take the thumbprint or fingerprint, either by use of the ink-rolled print method or by use of a live-scanning device that prints the thumbprint or fingerprint image on the judgment, order, or docket sheet.

SECTION 10.02. Section 1, Article 42.01, Code of Criminal Procedure, as amended by Section 4.04, Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant.

The sentence served shall be based on the information contained in the judgment. The judgment should reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding or findings of the court;
8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;
9. In the event of conviction where death or any nonprobated punishment is assessed that the defendant be sentenced to death, a term of imprisonment, or to pay a fine, as the case may be;
10. In the event of conviction where any probated punishment is assessed that the imposition of sentence is suspended and the defendant is placed on probation, setting forth the punishment assessed, the length of probation, and the probationary terms and conditions;
11. In the event of acquittal that the defendant be discharged;
12. The county and court in which the case was tried and, if there was a change of venue in the case, the name of the county in which the prosecution was originated;
13. The offense or offenses for which the defendant was convicted;
14. The date of the offense or offenses and degree of offense for which the defendant was convicted;
15. The term of sentence;
16. The date judgment is entered;
17. The date sentence is imposed;
18. The date sentence is to commence and any credit for time served;
19. The terms of any order entered pursuant to Article 42.08 of this code that the defendant's sentence is to run cumulatively or concurrently with another sentence or sentences;
20. The terms of any plea bargain;
21. Affirmative findings entered pursuant to Subdivision (2) of Subsection (a) of Section 3g of Article 42.12 of this code;
22. The terms of any fee payment ordered under Articles 37.072 and 42.151 of this code;
23. The defendant's thumbprint [fingerprint] taken in accordance with Article 38.33 of this code;
24. In the event that the judge orders the defendant to repay a reward or part of a reward under Articles 37.073 and 42.152 of this code, a statement of the amount of the payment or payments required to be made; and
25. In the event that the court orders restitution to be paid to the victim of a felony, a statement of the amount of restitution ordered and:
 - (A) the name of the victim and the permanent mailing address of the victim at the time of the judgment; or

(B) if the court determines that the inclusion of the victim's name and address in the judgment is not in the best interest of the victim, the name and address of a person or agency that will accept and forward restitution payments to the victim.

SECTION 10.03. Sections 411.042(b) and (d), Government Code, are amended to read as follows:

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated [convicted of a felony within the state and of all well-known and habitual criminals];

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including a statistical breakdown of those offenses in which family violence was involved;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state; and

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice.

(d) The department may charge each person and charge each entity or [state] agency that is not primarily a criminal justice agency a fee for processing inquiries for criminal history records and other information regarding a person. A person, entity, or [An] agency that receives information must be entitled to receive the information under state or federal statutes, rules, regulations, or case law. The department may charge:

(1) a fee of \$10 [\$5] for each inquiry for criminal history records information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which case the fee is \$1;

(2) a fee of \$15 [\$10] for each inquiry for criminal history records information on a person that is processed on the basis of a fingerprint comparison search; and

(3) actual costs for processing all other information inquiries.

SECTION 10.04. Section 411.042, Government Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) The department shall deposit all fees collected under this section in the operators and chauffeurs license fund.

(f) The department may keep any record or other information submitted to the department under this section, unless otherwise prohibited by law.

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records;

(3) reports of criminal history information submitted to the department;

(4) access to criminal history information maintained by the department; and

(5) the type and format of information and the means of identification of a requesting person, entity, or agency required by the department as a condition of releasing criminal history records information.

SECTION 10.05. Chapter 60, Code of Criminal Procedure, is amended by adding Articles 60.10, 60.11, 60.12, 60.13, 60.14, 60.15, 60.16, and 60.17 to read as follows:

Art. 60.10. EXPEDITING IMPLEMENTATION. The requirements set out in Articles 60.11 through 60.17 of this code are established in order to expedite the implementation and continued improvement of the information systems established under this chapter.

Art. 60.11. OPERATION DATE. The criminal justice information system must be in operation by a date not later than January 1, 1993, as determined by the Texas Department of Criminal Justice and the Department of Public Safety.

Art. 60.12. FINGERPRINT AND ARREST INFORMATION IN COMPUTERIZED SYSTEM. (a) The Department of Public Safety shall, when a jurisdiction transmits fingerprints and arrest information by a remote terminal accessing the statewide automated fingerprint identification system, use that transmission either to create a permanent record in the criminal justice information system or to create a temporary arrest record to be maintained by the department until the department receives and processes the physical copy of the arrest information.

(b) The Department of Public Safety shall make available to a criminal justice agency making a background criminal inquiry any information contained in a temporary arrest record maintained by the department, including a statement that a physical copy of the arrest information was not available at the time the information was entered in the system.

Art. 60.13. CONTRACTS FOR SOFTWARE DEVELOPMENT. If the Department of Public Safety is unable to hire qualified, full-time computer programmers to operate its computers, and the inability to hire the programmers will delay the development and implementation of the criminal justice information system established under this chapter, the department shall enter into contracts for the development of necessary software for the implementation of the criminal justice information system, based on open architecture readily accessible to other local and state branches of the criminal justice system.

Art. 60.14. ALLOCATION OF GRANT PROGRAM MONEY FOR CRIMINAL JUSTICE PROGRAMS. An agency of the state, before allocating money to a county from any federal or state grant program for the enhancement of criminal justice programs, shall certify that the county has taken or will take, using all or part of the allocated funds, all action necessary to provide the Texas Department of Criminal Justice and the Department of Public Safety any criminal history records maintained by the county in the manner specified for purposes of those departments.

Art. 60.15. PUBLIC HEARINGS. (a) Not later than January 31, 1992, the council shall, with the cooperation of the Department of Public Safety and the Texas Department of Criminal Justice, hold a minimum of three regional public hearings to allow state and local law enforcement officers, prosecutors, and court personnel to review and provide information relating to the criminal justice information system development, proposed system design, and implementation schedule.

(b) The council shall prepare a report on the hearings, containing information relating to the:

- (1) status of the criminal justice information system development;
- (2) data to be made available to law enforcement officers, prosecutors, courts, and corrections agencies;
- (3) recommendations made by public hearing participants; and
- (4) actions the Department of Public Safety and the Texas Department of Criminal Justice will take to implement recommendations made at the hearings or the rationale for not implementing those recommendations.

(c) The council shall submit the report required under Subsection (b) of this article to the governor and the Legislative Criminal Justice Board not later than 90 days after the date on which the final public hearing under this article is completed.

Art. 60.16. TIMETABLE FOR SYSTEM RECORDS. The Department of Public Safety shall establish a timetable and employ temporary personnel, if necessary, to ensure that all disposition records received by the department on or before June 1, 1992, are entered into the criminal justice information system by a date not later than September 1, 1992.

Art. 60.17. REPORT. (a) The council shall, with the cooperation of the Department of Public Safety and the Texas Department of Criminal Justice, submit a report to the governor and the Legislative Criminal Justice Board that proposes improvements to the criminal justice information system to take place during the biennium beginning September 1, 1993.

(b) The report must include:

(1) a proposed timetable and cost estimate for each recommended improvement;

(2) a plan to increase, if necessary, the level of detail contained in information uniformly available from the criminal justice information system, including information on parole, probation, and corrections classification levels and special programs for each individual in the criminal justice system;

(3) a plan to link, to the greatest extent practical, the criminal justice information system and the incident based reporting system, as implemented by the bureau of identification and records; and

(4) a plan to efficiently coordinate, to the extent practical, all county criminal history record systems with the criminal justice information system.

SECTION 10.06. This article takes effect December 1, 1991.

ARTICLE 11

SECTION 11.01. Notwithstanding the provisions of Section 1(b), **S.B. 828**, Acts of the 72nd Legislature, Regular Session, 1991, the agencies listed in that section shall make the report described by that section to the governor and the legislature not later than December 1, 1992.

SECTION 11.02. Section 1.131(i), Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), as added by **S.B. 828**, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(i) The institutional division shall provide for housing participants in the program:

(1) at least 450 beds for male inmates and 50 beds for female inmates in fiscal year 1992 [~~1994~~];

(2) at least 900 beds for male inmates and 100 beds for female inmates in fiscal year 1993 [~~1995~~];

(3) at least 1,300 beds for male inmates and 200 beds for female inmates in fiscal year 1994 [~~1996~~]; and

(4) at least 1,700 beds for male inmates and 300 beds for female inmates in fiscal year 1995 [~~1997~~] and each fiscal year after that year.

SECTION 11.03. Notwithstanding the provisions of Section 4(a), **S.B. 828**, Acts of the 72nd Legislature, Regular Session, 1991, the Texas Commission on Alcohol and Drug Abuse shall establish the programs described by that section not later than March 1, 1992.

SECTION 11.04. Notwithstanding the provisions of Section 5 of **S.B. 828**, Acts of the 72nd Legislature, Regular Session, 1991, that Act takes effect December 1, 1991.

SECTION 11.05. This article takes effect September 1, 1991.

ARTICLE 12

SECTION 12.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Amendment No. 1 - Barton

Amend C.S.S.B. 24 as follows:

On page 3, line 5, paragraph (n), insert the following after "facilities" and before "for": "and may contract with a private vendor or with the commissioner's court of a county."

Amendment No. 2 - Carter

Amend C.S.S.B. 24, in Article 1, in Section 1.04 of the bill, in Section 614.011(a), Health and Safety Code (page 3, line 19), by striking "the council shall" and substituting "the council may".

Amendment No. 3 - Hightower

Amend C.S.S.B. 24 by striking Article 2 and renumbering the remaining articles of the bill accordingly.

Amendment No. 4 - Ogden

Amend C.S.S.B. 24, in Article 1, Section 1.01, in Subsection (b)(3), on page 1, by striking lines 23 and 24, and on page 2, by striking lines 1-5, and substituting the following:

parole until his actual calendar time served, without consideration of good conduct time equals one-third [~~one-fourth~~] of the maximum sentence or 20 [~~15~~] calendar years, whichever is less, or one-fourth of the maximum sentence in calendar time served or 15 calendar years, whichever is less, if the institutional division grants a certification to the prisoner under Section 499.055, Government Code [~~but in no event shall he be eligible for release or parole in less than two calendar years~~].

Amendment No. 5 - Stiles

Amend C.S.S.B. 24 as follows:

On page 10, line 4 following the period, insert:

Of the amount of general obligation bonds authorized in this section, an amount not to exceed \$50 million is distributed for acquiring, constructing, or equipping new corrections institutions, or for major repair or renovation of existing facilities for youth.

Amendment No. 6 - Carter

Amend C.S.S.B. 24, in Article 4, in Section 4.01 of the bill, by striking Section 751.010, Government Code, and by substituting the following section:

Sec. 751.010. FEDERAL GRANTS FOR CRIMINAL JUSTICE AGENCIES. The office shall monitor and identify federal grants that are available to state and local criminal justice agencies and assist the agencies in applying for and obtaining those grants.

Amendment No. 7 - Watkins

Amend C.S.S.B. 24 as follows:

- (1) On page 11, line 13, strike "Ector,".
- (2) On page 12, line 22, insert "Ector," between "Culberson," and "El Paso,".

Amendment No. 8 - Eckels

Amend C.S.S.B. 24 in Article 5, in Section 5.01, in Section 363.003(b), in the second sentence, by striking "constitutional county judges" and substituting "counties".

Amendment No. 9 - B. Hunter

Amend C.S.S.B. 24, in Article 5, as follows:

- (1) Everywhere the words "work punishment" appear, insert "community" immediately before those words.
- (2) Everywhere the words "WORK PUNISHMENT" appear, insert "COMMUNITY" immediately before those words.

Amendment No. 10 - Chisum

Amend C.S.S.B. 24, on page 14, by adding, on line 19, between "department" and "is" an underlined comma and the following: "a county judge, a county commissioner, a sheriff or a member of the sheriff's department, county jailer, or any other local official participating in the administration or supervision of the program,"

Amendment No. 11 - Granoff

Amend C.S.S.B. 24, in Article 5, in Section 5.01, immediately after 363.011, Local Government Code, by inserting the following:

Sec. 363.012. VESTS REQUIRED. A defendant while participating in a work punishment program shall wear an orange vest on which is prominently displayed the phrase "DON'T MESS WITH TEXAS".

Amendment No. 12 - Williamson

Amend C.S.S.B. 24, in Article 5, by striking the existing Section 5.03 and substituting a new Section 5.03 to read as follows:

SECTION 5.03. Subchapter C, Chapter 12, Penal Code, is amended by Sections 12.35-12.37 to read as follows:

Sec. 12.35. FOURTH-DEGREE FELONY PUNISHMENT. An individual adjudged guilty of a felony of the fourth degree shall be punished by:

(1) being required to participate in a work punishment program operated by a regional detention authority under Chapter 363, Local Government Code, for 2,500 hours, a fine not to exceed \$10,000, or both participation and fine;
or

(2) confinement in the institutional division for life or for any term of not more than 99 years or less than 5 years, a fine not to exceed \$10,000, or both fine and confinement.

Sec. 12.36. FIFTH-DEGREE FELONY PUNISHMENT. An individual adjudged guilty of a felony of the fifth degree shall be punished by:

(1) being required to participate in a work punishment program operated by a regional detention authority under Chapter 363, Local Government Code, for 1,000 hours, a fine not to exceed \$10,000, or both participation and fine;
or

(2) confinement in the institutional division for any term of not more than 20 years or less than 2 years, a fine not to exceed \$10,000, or both confinement and fine.

Sec. 12.37. SIXTH-DEGREE FELONY PUNISHMENT. An individual adjudged guilty of a felony of the sixth degree shall be punished by:

(1) being required to participate in a work punishment program operated by a regional detention authority under Chapter 363, Local Government Code, for 500 hours, a fine not to exceed \$5,000, or both participation and fine; or

(2) confinement in the institutional division for any term of not more than 10 years or less than 2 years, a fine not to exceed \$5,000, or both confinement and fine.

Amendment No. 13 - Colbert

Amend C.S.S.B. 24 as follows:

- (1) On page 21, line 22, strike "sixth" and substitute "fifth" in lieu thereof.
- (2) On page 21, line 27, strike "fifth" and substitute "fourth" in lieu thereof.

Amendment No. 14 - Colbert

Amend C.S.S.B. 24 by deleting the changes to Section 28.07(c) from SECTION 5.13 on page 22.

Amendment No. 15 - S. Thompson

Amend C.S.S.B. 24, on page 34, Section 5.46, to read as follows:

SECTION 5.46. Sec. 43.23, Penal Code, is amended to read as follows:

43.23. (a) OBSCENITY. (a) A person commits an offense if, knowing its content and character, the person [he] wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) An offense under Subsection (a) of this section is a felony of the ~~[third]~~ sixth degree.

(c) A person commits an offense if, knowing its content and character, the person [he]:

(1) promotes or possesses with intent to promote any obscene material or obscene device; or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(d) An offense under Subsection (c) of this section is a Class A misdemeanor.

(e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

(f) It shall be lawful for a person who is licensed by the Texas State Board of Medical Examiners, the Texas State Board of Examiners of Psychologists, the Texas State Board of Pharmacy, or the Texas Board of Physical Therapy Examiners, or certified as a sex therapist, sex educator, or counselor in sexuality by the American Association of Sex Educators, Counselors and Therapists to sell, prescribe, and stock marital aids and other sexual devices that might otherwise be defined as obscene under this section. Possession of marital aids and other sexual devices by a person who is engaged in the teaching of safe sexual practices for a recognized nonprofit educational organization shall not give rise to any presumption of intent to promote or wholesale promote obscene devices under this Section [A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same].

Amendment No. 16 - Hilbert

Amend C.S.S.B. 24, in Article 5, by striking Section 5.55 and by renumbering the remaining sections accordingly.

Amendment No. 17 - Hilderbran

Amend C.S.S.B. 24 in Article 5 by inserting a new Section 5.561 between Sections 5.56 and 5.57 to read as follows:

SECTION 5.561. Section 481.126, Health and Safety Code, is amended to read as follows:

Sec. 481.126. OFFENSE: ILLEGAL EXPENDITURE OR INVESTMENT.

(a) A person commits an offense if the person knowingly or intentionally:

(1) expends funds the person knows are derived from the commission of an offense:

(A) under Section 481.112(c), 481.113(c), 481.114(c), 481.115(c), 481.116(c), 481.117(c), 481.118(c), 481.120(c), or 481.121(c); or

(B) punishable under Section 481.120(b)(5) or 481.121(b)(4); or

(2) finances or invests funds the person knows or believes are intended to further the commission of an offense listed in Subdivision (1).

(b) An offense under this section for which the prosecution is based on an underlying offense listed in Subsection (a)(1)(A) is punishable by confinement in the institutional division of the Texas Department of Criminal Justice [Corrections] for life or for a term of not more than 99 years or less than 5 years, and a fine of not more than \$1,000,000 or less than \$50,000.

(c) An offense under this section for which the prosecution is based on an underlying offense listed in Subsection (a)(1)(B) is punishable by confinement in the institutional division of the Texas Department of Criminal Justice for a term of not more than 20 years or less than 5 years, and a fine of not more than \$50,000 or less than \$5,000.

Amendment No. 18 - Williamson

Amend C.S.S.B. 24 as follows:

On page 39, strike lines 24 and 25 entirely and substitute in lieu thereof the following:

"supervision, and has not vacated and dismissed the suit is not entitled to any".

Amendment No. 19 - Dutton

Amend C.S.S.B. 24 by adding on page 40, line 16 between "courts" and ",", the following:

, which shall include such practices as they relate to the race of defendants charged with the same offense and possessing substantially identical criminal histories,

Amendment No. 20 - P. Gallego

Amend C.S.S.B. 24 by adding an appropriately numbered article to read as follows and renumbering the remaining articles accordingly:

ARTICLE 6

SECTION 1. Chapter 38, Penal Code, is amended by adding Section 38.112 to read as follows:

Sec. 38.112. PROHIBITED SUBSTANCES IN CORRECTIONAL FACILITIES. (a) A person commits an offense if the person provides an alcoholic beverage, controlled substance, or dangerous drug to an inmate of a municipal or county jail, except on the prescription of a physician.

(b) A person commits an offense if the person takes a controlled substance or dangerous drug into a municipal or county jail or a correctional facility authorized by Subchapter F, Chapter 351, Local Government Code, except for delivery to a jail or correctional facility warehouse, pharmacy, or physician.

(c) A person commits an offense if the person provides an alcoholic beverage, controlled substance, or dangerous drug to an inmate of the institutional division, except on the prescription of a physician.

(d) A person commits an offense if the person takes a controlled substance or dangerous drug into a correctional facility authorized by Chapter 494, Government Code, or into the confines of property owned by the institutional division and used or occupied by inmates, except for delivery to an institutional division or correctional facility warehouse, pharmacy, or physician.

(e) A person commits an offense if the person possesses a controlled substance or dangerous drug while in the confines of property belonging to the institutional division.

(f) It is an affirmative defense to prosecution under Subsection (e) that the person possessed the controlled substance or dangerous drug pursuant to a prescription issued by a practitioner or while delivering the substance or drug to an institutional division warehouse, pharmacy, or physician.

(g) In this section:

(1) "Alcoholic beverage" has the meaning assigned by Section 1.04(1), Alcoholic Beverage Code.

(2) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(3) "Dangerous drug" has the meaning assigned by Section 483.001, Health and Safety Code.

(4) "Institutional division" means the institutional division of the Texas Department of Criminal Justice.

(5) "Practitioner" has the meaning assigned by Section 481.002, Health and Safety Code.

(6) "Prescription" has the meaning assigned by Section 481.002, Health and Safety Code.

(h) An offense under this section is a felony of the third degree.

SECTION 2. Section 499.004, Government Code, is repealed.

SECTION 3. Section 361.082, Local Government Code, is repealed.

SECTION 4. The repeal by this Act of Section 361.082, Local Government Code, and Section 499.004, Government Code, does not apply to an offense committed under those sections before the effective date of the repeal. An offense committed before that date is covered by those sections as they existed on the date on which the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. This Article takes effect September 1, 1991.

Amendment No. 21 - P. Gallego

Amend C.S.S.B. 24 by striking Section 7.01 and inserting the following therein:

SECTION 7.01. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.20 to read as follows:

Article 42.20. RESTITUTION LIENS

Sec. 1. LIEN ESTABLISHED. (a) The victim of a criminal offense has a restitution lien to secure the amount of restitution to which the victim is entitled under the order of a court in a criminal case.

(b) The state shall also have a restitution lien to secure (1) the amount of fines and costs including court appointed attorneys fees (2) the amount of supervisory

fees or probation fees; and (3) any other counseling or similar fees required by the court as a condition of probation.

(c) In any order in which a court requires a defendant to pay restitution, fines, costs, supervisory fees, probation fees or other fees, the court shall specify the amount of each such sum separately, the terms of payment and the clerk or other agency to whom such sums are to be paid.

Sec. 2. PERFECTION. A restitution lien is perfected when an affidavit to perfect the lien is filed in accordance with this article.

Sec. 3. JUDGMENT REQUIRED. An affidavit to perfect a restitution lien may not be filed under this article until a court has ordered restitution or entered a judgment requiring the defendant to pay a fine and costs.

Sec. 4. PERSONS WHO MAY FILE. The following persons may file an affidavit to perfect a restitution lien:

(1) the attorney or a person under the direction of such attorney representing the state in a criminal case in which a victim is determined by the court to be entitled to restitution or in which a defendant is ordered to pay fines or costs; or

(2) a victim in a criminal case determined by the court to be entitled to restitution.

Sec. 5. AFFIDAVIT. (a) An affidavit to perfect a restitution lien must be signed by the attorney or a person under the direction of an attorney representing the state or may be signed by a magistrate and must contain:

(1) the name and date of birth of the defendant whose property or other interests are subject to the lien;

(2) the residence or principal place of business of the person named in the lien, if known;

(3) the criminal proceeding giving rise to the lien, including the name of the court, the name of the case, and the court's file number for the case;

(4) the name and address of the attorney representing the state and the name and address of the person entitled to restitution;

(5) a statement that the notice is being filed under this article;

(6) the amount of restitution, fines, costs, probation, supervisory or other fees the defendant has been ordered to pay by the court; and

(7) a statement that the amount of restitution owed at any one time may be less than the original balance and that the outstanding balance is reflected in the records of the clerk of the court hearing the criminal proceeding giving rise to the lien.

(b) The affidavit shall be under oath or seal of court.

Sec. 6. FILING. (a) An affidavit to perfect a restitution lien may be filed with a county clerk.

(b) A filing fee or other charge may not be required as a condition for the filing of an affidavit to perfect a restitution lien.

(c) A person who files an affidavit to perfect a restitution lien under this article shall notify in writing the clerk of the court entering the judgment creating the lien of all officers or entities with which the affidavit was filed.

(d) The failure of a person to notify the clerk of the court entering the judgment creating the lien shall not affect the validity of such lien.

Sec. 7. SUBJECT PROPERTY. A restitution lien extends to:

(1) any interest of the defendant in real property located in a county in which the lien is perfected by filing and the indexing of an affidavit with the county clerk; and

(2) any interest in the defendant in personal property if the lien is perfected by the filing and the indexing of an affidavit with the county clerk.

Sec. 8. PRIORITY. The perfection of a restitution lien under this article is notice of the claim to all persons dealing with the defendant or the property

identified in the affidavit perfecting the lien. A perfected lien in favor of a victim shall share pro rata with any lien perfected by the state under this article and is superior to any other person other than a person who:

(1) possesses a valid lien, or security interest, perfected before the filing of the restitution lien;

(2) acquires as a bona fide purchaser for value an interest in the property, if personal property, before the perfection of the restitution lien; and

(3) acquires as a bona fide purchaser for value an interest in the property, if real property, and has recorded the instrument of conveyance before the perfection of the restitution lien.

Sec. 9. FILING AND INDEXING A RESTITUTION LIEN. (a) the county clerk shall immediately record in the county judgment records each restitution lien that is presented for recording. The clerk shall note in the records the date and hour the restitution lien is received.

(b) At the time a restitution lien is filed, the county clerk receiving such restitution lien shall enter the restitution lien in its records on an alphabetical index to the records in which the restitution lien is filed showing:

(1) the name of the victim entitled to restitution;

(2) the name of the defendant obligated to pay restitution, fine, court costs or other fees;

(3) the amount of such restitution claimed by such lien; and

(4) the name of the court which ordered such restitution, fine, court costs or other fees.

Sec. 10. PAYMENT TO VICTIM. The clerk or other agency receiving funds ordered to be paid under this article shall pay to the victim, state or other person or agency to whom the defendant is obligated by an order under this article to pay, the amounts so collected monthly or on such other schedule not less than quarterly as such clerk or other collecting agency deems efficient.

Sec. 11. FORECLOSURE. Upon the failure of a defendant to timely make any payments required under an order entered by a court under this article, the victim, an attorney representing the state or other person owning an interest in the lien may file suit in a court of competent jurisdiction to foreclose the lien created under this article. In the event a defendant cures the default in payment obligation within 20 days from the filing of such suit and pays to such victim, the state or other person who shall file such suit, all costs of court incurred in such filing together with reasonable attorneys fees, such suit to foreclose the restitution lien may be dismissed without prejudice to the victim, state or other person owning an interest in such restitution lien refiling the same in the event of a subsequent default.

Sec. 12. EXPIRATION; RECORDS. (a) A restitution lien expires ten (10) years following the date of filing the restitution lien or when the defendant satisfies the judgment creating the restitution lien whichever occurs first, unless the victim, state or other person owning an interest in such restitution lien refiles such lien as originally provided in this article before the expiration of such ten (10) year period.

(b) The failure to request an execution or to foreclose such restitution lien shall not result in the dormancy of a restitution lien.

(c) The clerk of the court entering the judgment creating the restitution lien or the designated collecting agency must maintain a record of the outstanding balance of restitution, fine, costs, probation, supervision fees or other fees owed. If the defendant satisfies the judgment, the clerk of the court entering the judgment creating the restitution lien or other designated collecting agency shall immediately notify all officers or entities with whom the affidavit perfecting the restitution lien was filed, as indicated by the notice received by the clerk under Section 6(c) of this article.

SECTION _____. A restitution lien arises only from a judgment in a criminal case entered on or after the effective date of this article.

SECTION _____. This article takes effect January 1, 1992.

Amendment No. 22 - P. Gallego

Amend C.S.S.B. 24, in Article 7, by striking Section 7.02 of the bill and renumbering remaining sections accordingly.

Amendment No. 23 - Colbert

Amend C.S.S.B. 24 by striking lines 25-27 on page 41 and substituting:

appointed by the lieutenant governor, and who may be members of the senate, and five of whom are appointed by the speaker of the house of representatives, and who may be members of the house of representatives. In making

Amendment No. 24 - Colbert

Amend C.S.S.B. 24 as follows:

(1) On page 57, line 27, strike "60.15,".

(2) On page 58, line 26, strike "operate" and substitute: develop software for.

(3) On page 59, strike lines 16-27 in their entirety.

(4) On page 60, strike lines 1-12 in their entirety.

(5) On page 60, line 22, between "Board" and "that", insert: no later than September 30, 1992.

(6) On page 60, line 24, after the period, add: The process of developing the report shall include a minimum of three regional public hearings to allow state and local law enforcement officers, prosecutors, and courts personnel to provide input on system development and design.

Amendment No. 25 - Colbert

Amend C.S.S.B. 24 by adding a new article as follows and renumbering articles as appropriate:

ARTICLE _____

SECTION _____.01. Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), is amended by adding Section 1.22 to read as follows:

Sec. 1.22. QUALITY OF PROVISIONS. (a) The director of the institutional division of the Texas Department of Criminal Justice shall provide inmates confined in the division with a quality of food, housing, medical care, and other necessities that does not exceed the minimum requirements of the Texas Constitution and the United States Constitution.

(b) The director may provide an inmate with a quality of food, housing, medical care, and other necessities that exceeds the minimum requirements described by Subsection (a) of this section only if the inmate is determined by the director to have a good discipline record in the division and to be an active participant in work programs and education, treatment, or other rehabilitative programs offered by the institutional division, pursuant to legislation or regulations adopted under Sec. 1.23 of Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), as amended.

SECTION _____.02. This article takes effect December 1, 1991.

Amendment No. 26 - Colbert

Amend C.S.S.B. 24 by adding a new article as follows and renumbering existing articles as appropriate:

ARTICLE _____

SECTION ____01. FINDINGS; PURPOSE. (a) The legislature finds that the proximity of drug-related activity to schools and playgrounds is a serious problem facing the schoolchildren of this state, their parents and educators, and society as a whole, creating an emergency situation requiring a swift, strong response. The interactions of schoolchildren and between them and adults should be healthy and contribute to the development of positive social skills; the schoolchildren of this state deserve for their schools and playgrounds to be free from the blight of drug-related activity and to be safe and secure; and the quality of education will be enhanced by and society will benefit from the establishment of drug-free zones in and around elementary and secondary schools.

(b) It is the purpose of this Act to alleviate the problems arising from the availability of drugs to school-age children by eliminating the sale, possession, and use of controlled substances in and around elementary and secondary schools through the creation of drug-free zones in which deterrence and enforcement efforts are increased.

SECTION ____02. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.131 to read as follows:

Sec. 481.131. DRUG-FREE ZONES. (a) In this section:

(1)(A) "Drug-free zone" means an area in, on, or within:

(i) 1,000 feet of the premises of a school;

or

(ii) 300 feet of the premises of a

playground;

(B) For purposes of this section, the distance from the premises of a school shall be measured by the shortest straight line from the place where the offense was committed to the nearest property line of the school.

(2) "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and teeterboards.

(3) "Premises" means real property and all buildings and appurtenances pertaining to the real property.

(4) "School" means a private or public elementary or secondary school.

(b) For a felony offense under Section 481.112, 481.113, 481.114, 481.119, or 481.120, if it is shown at the trial of the offense that the offense was committed in a drug-free zone the judge may, at the judge's discretion, increase the sentence imposed by up to five years. If the judge does elect to increase the sentence, the judge shall provide the court with an explanation for the increase and give reasons adequate to justify the imposition of such an increase.

(d) It is not a defense to the increase in penalty provided in this section that at the time of the offense:

(1) school was not in session; or

(2) no juveniles were present on the school or playground premises.

(e) It is an affirmative defense to prosecution under this section that:

(1) the offense was committed inside a private residence;

(2) no minor was present in the private residence at the time the offense was committed; and

(3) the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled

substance for profit. The defendant shall establish the affirmative defense under this section by proving each element of the defense by a preponderance of the evidence.

(f) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section, the defendant is not eligible for probation or deferred adjudication under Article 42.12, Code of Criminal Procedure.

(g) In a prosecution in which the penalty may be increased as provided in this section, a map produced or reproduced by any municipal or county engineer for the purpose of depicting the location and boundaries of drug-free zones or a true copy of such a map, shall, on proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of a drug-free zone, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as an official finding and record of the location and boundaries of drug-free zones. Any map approved pursuant to this subsection may be changed from time to time by the governing body of the municipality or county. The original or a true copy of every map approved or revised pursuant to this subsection shall be filed with the clerk of the municipality or county and shall be maintained as an official record of the municipality or county. Nothing in this subsection shall be construed to preclude the prosecution from introducing or relying on any other evidence or testimony to establish any element of an offense subject to increased penalty under this section, nor shall this subsection be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Texas Rules of Criminal Evidence.

(h) One-half of all fines collected for offenses in which there is a finding under Subsection (b) of this section is payable to the comptroller of public accounts. All such fines are hereby appropriated to the Texas Commission on Alcohol and Drug Abuse to be expended for substance abuse prevention, intervention, and treatment services for youth. Funds allocated in this section may be used by the commission to meet any federal requirements for receipt of federal funds for chemical dependency prevention and treatment services. The fines due the state under this section shall be collected along with and in the same manner as other fines are collected in the case. The officer collecting the fines due under this section shall keep separate records of the funds collected as fines under this section and shall deposit the funds in the county treasury. The custodians of the county treasuries with whom fines collected under this section are deposited shall keep records of the amount of fines collected under this section which are on deposit with them and shall on the first day of January, April, July, and October of each year remit to the comptroller of public accounts one-half of all fines collected under this section during the preceding quarter.

SECTION ____03. (a) The change in law made by this article applies only to an offense committed on or after the effective date of this article. For the purposes of this section, an offense is committed before the effective date of this article if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION ____04. This article takes effect December 1, 1991.

Amendment No. 27 - Von Dohlen

Amend C.S.S.B. 24 by adding the following appropriately numbered article to the bill to read as follows and renumbering the existing articles of the bill accordingly:

ARTICLE _____

SECTION _____. Section 497.054, Government Code, as revised by S.B. 232, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 497.054. HOUSING FOR PARTICIPANTS. (a) The pardons and paroles division, as necessary, shall designate facilities in an area in which residents are to be participants in the work program plan for the housing of those residents. The pardons and paroles division may not grant a resident work privileges unless:

(1) suitable housing for the resident exists in the area in which the resident is employed or has an offer of employment; or

(2) the resident is to be placed in a work facility that combines employment facilities and living quarters for the resident [and is located within 100 miles of the resident's recorded place of residence].

(b) The pardons and paroles division may assume custody of an eligible person who has previously been denied parole, or whose initial parole eligibility date is more than six months [one year] but less than two years from the projected date of transfer to a work facility and transfer the person to a work facility. The pardons and paroles division may assume custody of a person whom the pardons and paroles division may transfer under Section 499.003(a) and transfer the person to a work facility.

SECTION _____. Section 497.056(b), Government Code, as revised by S.B. 232, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(b) The board shall adopt rules for the administration of the conditional work program. The rules must include a work program contract that includes an agreement by the resident to:

(1) contribute to the owner, operator, or manager of the work facility, from the funds received by the resident for the resident's participation in on-site industries' training and employment, not more than 80 percent of the funds, to be used or distributed by the owner, operator, or manager of the work facility to pay all or a part of:

- (A) costs of supervision;
- (B) costs of being quartered in the facility;
- (C) restitution to the victim or victims of the resident;
- (D) savings, to be retained for the resident in a designated account for the resident's benefit and receipt on release; and
- (E) support of the resident's dependents, if any;

(2) serve at least six months [one calendar year] in the work facility before requesting parole review under Section 8(b), Article 42.18, Code of Criminal Procedure, and to serve at least six months [one calendar year] regardless of whether the resident becomes eligible for mandatory supervision under Section 8(c), Article 42.18, Code of Criminal Procedure, during that period [calendar year]; and

(3) participate in the employment, education, and rehabilitation programs available at the work facility, to the extent that participation is recommended by the professional staff of the facility.

SECTION _____. This article takes effect December 1, 1991.

Amendment No. 28 - Von Dohlen

Amend C.S.S.B. 24 by adding an appropriately numbered article to read as follows and renumbering the existing articles accordingly:

ARTICLE _____

SECTION _____. Section 16(a), Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) Notwithstanding the provisions of Subsection (a) of this section, a court may order a defendant who is not employed to perform up to 32 hours of work probation under this section, and may direct the defendant to use the remaining hours of the week to seek employment.

SECTION _____. Section 7, Article 42.03, Code of Criminal Procedure, as added by Chapter 740, Acts of the 71st Legislature, Regular Session, 1989, by adding Subsection (f) to read as follows:

(f) Notwithstanding the provisions of Subsection (d) of this section, a court may order a defendant who is not employed to perform up to 32 hours of community service under this section, and may direct the defendant to use the remaining hours of the week to seek employment.

SECTION _____. This article takes effect December 1, 1991.

Amendment No. 29 - Eckels

Amend C.S.S.B. 24, in Article 5, in Section 5.61, in Section 14 of Article 42.13, as follows:

(1) Strike "December 1, 1991" and substitute "September 1, 1991".

(2) Strike everything after "abates the suit" and substitute the following:
, for the period after September 1, 1991, is not entitled to any payment from the division under Section 11 or Section 13 of this article for the period occurring after September 1, 1991. However, this section does not prevent a county from pursuing a suit for a period ending before September 1, 1991.

Amendment No. 30 - Collazo

Amend C.S.S.B. 24 as follows:

(1) Add a new article, appropriately numbered, to read as follows:

ARTICLE _____

SECTION _____. Article 38.07, Code of Criminal Procedure is amended to read as follows:

Art. 38.07. TESTIMONY IN CORROBORATION OF VICTIM OF SEXUAL OFFENSE. A conviction under Chapter 21, Section 22.011, or Section 22.021, Penal Code, is supportable on the uncorroborated testimony of the victim of the sexual offense if the victim informed any person, other than the defendant, of the alleged offense within six months after the date on which the offense is alleged to have occurred. The requirement that the victim inform another person of an alleged offense does not apply if the victim was younger than 17 [14] years of age at the time of the alleged offense. The court shall instruct the jury that the time which lapsed between the alleged offense and the time it was reported shall be considered by the jury only for the purpose of assessing the weight to be given to the testimony of the victim.

(2) Renumber the remaining articles accordingly.

Amendment No. 1 on Third Reading - Russell, Willis

Amend C.S.S.B. 24 on third reading by striking Article 5 and substituting a new Article 5 to read as follows:

ARTICLE 5

SECTION 5.01. Subtitle C, Title 11, Local Government Code, is amended by adding Chapter 363 to read as follows:

CHAPTER 363. REGIONAL DETENTION AUTHORITIES

Sec. 363.001. REGIONS. (a) For the purposes of this chapter, the state consists of six regional detention authorities.

(b) Region 1 consists of the following counties:

Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Briscoe, Brown, Callahan, Carson, Castro, Childress, Clay, Cochran, Coleman, Collingsworth, Comanche, Concho, Cottle, Crane, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Howard, Hutchinson, Jones, Kent, Kimble, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, McCulloch, Martin, Menard, Midland, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Potter, Randall, Reagan, Roberts, Runnels, Scurry, Shackelford, Sherman, Stephens, Stonewall, Swisher, Taylor, Terry, Throckmorton, Upton, Wheeler, Wichita, Wilbarger, Yoakum, and Young.

(c) Region 2 consists of the following counties:

Anderson, Bowie, Camp, Cass, Cherokee, Collin, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Franklin, Grayson, Gregg, Harrison, Henderson, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Marion, Montague, Morris, Nacogdoches, Navarro, Palo Pinto, Panola, Parker, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Somervell, Tarrant, Titus, Upshur, Van Zandt, Wise, and Wood.

(d) Region 3 consists of the following counties:

Angelina, Austin, Brazoria, Calhoun, Chambers, Colorado, De Witt, Fayette, Fort Bend, Galveston, Goliad, Grimes, Hardin, Harris, Houston, Jackson, Jasper, Jefferson, Karnes, Lavaca, Liberty, Matagorda, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, Victoria, Walker, Waller, Washington, and Wharton.

(e) Region 4 consists of the following counties:

Atascosa, Bandera, Bastrop, Bell, Bexar, Blanco, Bosque, Brazos, Burleson, Burnet, Caldwell, Comal, Coryell, Dimmit, Edwards, Falls, Freestone, Frio, Gillespie, Gonzales, Guadalupe, Hamilton, Hays, Hill, Kendall, Kerr, Kinney, Lampasas, La Salle, Lee, Leon, Limestone, Llano, McLennan, McMullen, Madison, Mason, Maverick, Medina, Milam, Mills, Real, Robertson, San Saba, Travis, Uvalde, Williamson, Wilson, and Zavala.

(f) Region 5 consists of the following counties:

Aransas, Bee, Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Live Oak, Nueces, Refugio, San Patricio, Starr, Webb, Willacy, and Zapata.

(g) Region 6 consists of the following counties:

Brewster, Coke, Crockett, Culberson, Ector, El Paso, Hudspeth, Irion, Jeff Davis, Loving, Pecos, Presidio, Reeves, Schleicher, Sterling, Sutton, Terrell, Tom Green, Val Verde, Ward, and Winkler.

Sec. 363.002. DEFINITION. In this chapter, "authority" means a regional detention authority.

Sec. 363.003. DIRECTOR; FUNDING. (a) The constitutional county judges of the counties in an authority shall jointly agree on the appointment of a director for the authority. The director shall manage the operations of the authority.

(b) The authority shall annually submit its request for funds for administrative expenses to the counties it serves. The counties shall provide the funds for necessary administrative expenses for each authority based on the population of the authority and the number of prisoners the authority handles.

Sec. 363.004. REGIONAL DETENTION FACILITIES. (a) The Texas Department of Criminal Justice shall provide 6,000 detention facility beds to be apportioned by the department among the authorities on the basis of the relative populations of the authorities.

(b) The authority shall apportion beds in the facility serving the counties comprising the authority on the basis of the relative populations of the counties in the authority, except that if a county does not need all the beds apportioned to the

county under this subsection, the authority shall apportion those beds to the other counties until the county shows evidence of need.

(c) The authority shall house defendants who are ordered confined under Section 363.011 in its regional detention facility. If there is no space available in its regional detention facility, an authority may contract with other authorities or any county to provide the jail space.

(d) The Commission on Jail Standards shall establish standards for programs and facilities operated under this chapter. If the commission determines that a regional detention authority complies with those standards, the commission shall pay a per diem to each authority as determined by the General Appropriations Act for each defendant held in a regional detention facility.

(e) If the authority is unable to locate housing for a defendant, the institutional division of the Texas Department of Criminal Justice shall provide the beds to house defendants ordered confined under Section 363.011.

Sec. 363.005. COMMUNITY WORK PUNISHMENT PROGRAM ESTABLISHED. The authorities shall establish community work punishment programs in their regions to implement punishment imposed by courts on defendants convicted of fourth-, fifth-, and sixth-degree felonies.

Sec. 363.006. LABOR FOR PUBLIC GOOD. An authority shall use the labor of defendants participating in a community work punishment program established under this chapter only on projects that benefit the state, a political subdivision of the state, or nonprofit organizations that serve the public good by assisting the poor or performing other services that benefit the state or its citizens.

Sec. 363.007. LIABILITY. An officer or employee of an authority or a community supervision and corrections department, a county judge, a county commissioner, a sheriff or a member of the sheriff's department, a county jailer, or any other local official participating in the administration or supervision of the program is not liable for damages arising from an act or failure to act by the officer or employee in connection with a community work punishment program established under this chapter if the act or failure to act:

(1) was performed in an official capacity; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

Sec. 363.008. CUSTODY STATUS. Defendants participating in a community work punishment program established under this chapter are in the custody of an authority only during the hours in which they actually are working in the program.

Sec. 363.009. MINIMUM HOURS. An authority may not require a defendant to work less than 10 hours during any week while the defendant is participating in the program.

Sec. 363.010. RULES. An authority shall adopt rules for the administration of the program and the conduct of defendants participating in the program.

Sec. 363.011. RULES VIOLATION; HEARING; PENALTY. (a) A defendant who violates a rule adopted under Section 363.010 may be confined in a county jail or a regional detention facility for a term not to exceed 30 days, after a hearing conducted as near as possible to the place where an alleged violation occurred and by the director of the authority or the director's designee. The director or the director's designee shall limit the hearing to a determination as to whether the defendant violated the rule.

(b) A defendant confined in a punishment facility under this section earns, in addition to credit for the hours worked by the defendant while confined, one hour's credit toward completion of the defendant's sentence for each 24 hours confined in the facility.

(c) A defendant who violates a rule adopted under Section 363.010 and who has been previously confined two or more times in a punishment facility for a

violation of a rule adopted under that section may be confined in an institutional division punishment facility for a term not to exceed six months.

Sec. 363.012. VESTS REQUIRED. A defendant while participating in a community work punishment program shall wear an orange vest on which is prominently displayed the phrase "DON'T MESS WITH TEXAS."

SECTION 5.02. Section 12.04(a), Penal Code, is amended to read as follows:

(a) Felonies are classified according to the relative seriousness of the offense into five [four] categories:

- (1) capital felonies;
- (2) felonies of the first degree;
- (3) felonies of the second degree;
- (4) felonies of the third degree; and
- (5) felonies of the fourth degree.

SECTION 5.03. Subchapter C, Chapter 12, Penal Code, is amended by adding Section 12.35 to read as follows:

Sec. 12.35. FOURTH-DEGREE FELONY PUNISHMENT. An individual adjudged guilty of a felony of the fourth degree shall be punished by:

(1) being required to participate in a community work punishment program operated by a regional detention authority under Chapter 363, Local Government Code, for not less than 1,000 or more than 5,000 hours, a fine not to exceed \$10,000, or both participation and fine; or

(2) confinement in jail for a term not to exceed one year, a fine not to exceed \$3,000, or both confinement and fine.

SECTION 5.04. Section 12.42, Penal Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) If it is shown on the trial of a fourth-degree felony that the defendant has previously been convicted of any felony, the defendant shall be punished for a third-degree felony.

(f) A conviction of an offense punishable as a felony of the fourth degree is a final conviction of a felony offense for the purposes of Subsections (a), (b), (c), or (d) of this section, regardless of whether the sentence is probated.

SECTION 5.05. Sections 16.02(d) and (i), Penal Code, are amended to read as follows:

(d)(1) Except as provided by Subsection (e) of this section, a person commits an offense if he:

(A) intentionally manufactures, assembles, possesses, or sells an electronic, mechanical, or other device knowing or having reason to know that the device is designed primarily for nonconsensual interception of wire, electronic, or oral communications and that the device or a component of the device has been or will be used for an unlawful purpose; or

(B) places in a newspaper, magazine, handbill, or other publication an advertisement of an electronic, mechanical, or other device:

(i) knowing or having reason to know that the device is designed primarily for nonconsensual interception of wire, electronic, or oral communications;

(ii) promoting the use of the device for the purpose of nonconsensual interception of wire, electronic, or oral communications; or

(iii) knowing or having reason to know that the advertisement will promote the use of the device for the purpose of nonconsensual interception of wire, electronic, or oral communications.

(2) An offense under Subdivision (1) of this subsection is [punishable by confinement in the Texas Department of Corrections for a term of not more than five years or] a felony of the fourth degree [fine of not more than \$10,000, or both].

(i)(1) A person commits an offense if, knowing that a government attorney or an investigative or law enforcement officer has been authorized or has applied for authorization to intercept wire, electronic, or oral communications, the person obstructs, impedes, prevents, gives notice to another of, or attempts to give notice to another of the interception.

(2) An offense under this subsection is [~~punishable by confinement in the Texas Department of Corrections for a term of not more than five years or by~~] a felony of the fourth degree [~~fine of not more than \$10,000, or both~~].

SECTION 5.06. Section 16.03(e), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.07. Section 16.05(d), Penal Code, is amended to read as follows:

(d) Except as provided by Subsections (e) and (f) of this section, an offense under Subsection (b) of this section is [~~punishable by confinement in the Texas Department of Corrections for a term of not more than five years or~~] a felony of the fourth degree [~~fine not to exceed \$10,000, or both~~].

SECTION 5.08. Section 25.01(e), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.09. Section 25.03(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.10. Section 25.031(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.11. Section 25.05(g), Penal Code, is amended to read as follows:

(g) An offense under this section is a felony of the fourth [third] degree if the actor:

(1) has been convicted one or more times under this section; or

(2) commits the offense while residing in another state.

SECTION 5.12. Sections 28.03(b) and (f), Penal Code, are amended to read as follows:

(b) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$20; or

(B) except as provided in Subdivision (4)(B) of this subsection, it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$20 or more but less than \$200;

(3) a Class A misdemeanor if the amount of pecuniary loss is \$200 or more but less than \$750;

(4) a felony of the fourth [third] degree if:

(A) the amount of pecuniary loss is \$750 or more but less than \$20,000;

(B) regardless of the amount of pecuniary loss, the actor causes in whole or in part impairment or interruption of public communications, public transportation, public water, gas, or power supply, or other public service, or diverts, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for such purpose, any public communications, public water, gas, or power supply;

(C) regardless of the amount of pecuniary loss, the property is one or more head of cattle, horses, sheep, swine, or goats;

(D) regardless of the amount of pecuniary loss, the property was a fence used for the production of cattle, horses, sheep, swine, or goats; or

(E) regardless of the amount of pecuniary loss, the damage or destruction was inflicted by branding one or more head of cattle, horses, sheep, swine, or goats.

(5) a felony of the third [second] degree if the amount of the pecuniary loss is \$20,000 or more.

(f) An offense under this section is:

(1) a felony of the fourth [third] degree if the damage or destruction is inflicted on a place of worship or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is \$20 or more but less than \$20,000; or

(2) a felony of the third [second] degree if the damage or destruction is inflicted on a place of worship or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is \$20,000 or more.

SECTION 5.13. Sections 28.07(c) and (e), Penal Code, are amended to read as follows:

(c) An offense under Subsection (b)(1) of this section is a Class B misdemeanor unless the person causes bodily injury to another, in which event the offense is a felony of the fourth [third] degree.

(e) An offense under Subsection (b)(2)(B), (b)(2)(C), or (b)(2)(D) of this section is a Class C misdemeanor unless the person causes pecuniary loss, in which event the offense is:

(1) a Class B misdemeanor if the amount of pecuniary loss is \$20 or more but less than \$200;

(2) a Class A misdemeanor if the amount of pecuniary loss is \$200 or more but less than \$750;

(3) a felony of the fourth [third] degree if the amount of pecuniary loss is \$750 or more but less than \$20,000; or

(4) a felony of the third [second] degree if the amount of the pecuniary loss is \$20,000 or more.

SECTION 5.14. Section 31.03(e), Penal Code, as amended by S.B. 4, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) Except as provided by Subsection (f) of this section, an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$20;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$20 or more but less than \$200; or

(B) the value of the property stolen is less than \$20 and the defendant has previously been convicted of any grade of theft;

(3) a Class A misdemeanor if:

(A) the value of the property stolen is \$200 or more but less than \$750; or

(B) the property stolen is one firearm, as defined by Section 46.01 of this code, and is valued at less than \$400;

(4) a felony of the fourth [third] degree if:

(A) the value of the property stolen is \$750 or more but less than \$20,000, or the property is one or more head of cattle, horses, sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave;

(C) the property stolen is one firearm, as defined by Section 46.01 of this code, and is valued at more than \$400;

(D) the property stolen is two or more firearms, as defined by Section 46.01 of this code; or

(E) the value of the property stolen is less than \$750 and the defendant has been previously convicted two or more times of any grade of theft;

(5) a felony of the third [second] degree if:

(A) the value of the property stolen is less than \$100,000 and the property is:

(i) combustible hydrocarbon natural or synthetic natural gas, or crude petroleum oil;

(ii) equipment designed for use in exploration for or production of natural gas or crude petroleum oil; or

(iii) equipment designed for use in remedial or diagnostic operations on gas or crude petroleum oil wells;

(B) the value of the property stolen is \$20,000 or more but less than \$100,000; or

(C) the value of the property is less than \$100,000 and the property was unlawfully appropriated or attempted to be unlawfully appropriated by threat to commit a felony offense against the person or property of the person threatened or another or to withhold information about the location or purported location of a bomb, poison, or other harmful object that threatens to harm the person or property of the person threatened or another person; or

(6) a felony of the second [first] degree if:

(A) the value of the property stolen is \$100,000 or more;

or

(B) the value of the property is \$100,000 or more and the property was unlawfully appropriated or attempted to be unlawfully appropriated in the manner described by Subdivision (5)(C) of this subsection.

SECTION 5.15. Section 31.04(e), Penal Code, is amended to read as follows:

(e) An offense under this section is:

(1) a Class C misdemeanor if the value of the service stolen is less than \$20;

(2) a Class B misdemeanor if the value of the service stolen is \$20 or more but less than \$200;

(3) a Class A misdemeanor if the value of the service stolen is \$200 or more but less than \$750;

(4) a felony of the fourth [third] degree if the value of the service stolen is \$750 or more but less than \$20,000;

(5) a felony of the third [second] degree if the value of the service stolen is \$20,000 or more.

SECTION 5.16. Section 31.07(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.17. Section 31.11(e), Penal Code, as added by Chapter 113, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) An offense under this section is a felony of the fourth [third] degree if the property involved is:

(1) equipment designed for exploration or production of natural gas or crude oil;

(2) equipment designed for remedial or diagnostic operations on gas or crude oil wells;

(3) a vehicle or part of a vehicle;

(4) a tractor, farm implement, unit of special mobile equipment, or a unit of off-road construction equipment not subject to the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes);

(5) an aircraft, boat, or part of an aircraft or boat; or

(6) a firearm or part of a firearm.

SECTION 5.18. Section 32.31(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.19. Sections 32.33(e) and (f), Penal Code, are amended to read as follows:

(e) If the actor removes the property, the offense is a felony of the fourth [third] degree.

(f) A person who is a debtor under a security agreement, and who does not have a right to sell or dispose of the secured property or is required to account to the secured party for the proceeds of a permitted sale or disposition, commits an offense if the person sells or otherwise disposes of the secured property, or does not account to the secured party for the proceeds of a sale or other disposition as required, with intent to appropriate (as defined in Chapter 31 of this code) the proceeds or value of the secured property. A person is presumed to have intended to appropriate proceeds if the person does not deliver the proceeds to the secured party or account to the secured party for the proceeds before the 11th day after the day that the secured party makes a lawful demand for the proceeds or account. An offense under this subsection is:

(1) a Class A misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of less than \$10,000;

(2) a felony of the fourth [third] degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$10,000 or more.

SECTION 5.20. Section 32.36(f), Penal Code, is amended to read as follows:

(f) An offense under Subsection (b)(1), (b)(2), or (b)(3) of this section is:

(1) a felony of the fourth [third] degree if the value of the motor vehicle is less than \$20,000; or

(2) a felony of the third [second] degree if the value of the motor vehicle is \$20,000 or more.

SECTION 5.21. Section 32.43(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.22. Section 32.44(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree if the actor's conduct is in connection with betting or wagering on the contest.

SECTION 5.23. Section 32.441(e), Penal Code, is amended to read as follows:

(e) An offense under Subsection (a) of this section is a Class A misdemeanor. An offense under Subsection (b) of this section is a felony of the fourth [third] degree.

SECTION 5.24. Section 32.45(c), Penal Code, as amended by S.B. 4, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(c) An offense under this section is:

(1) a Class A misdemeanor if the value of the property misapplied is less than \$200;

(2) a felony of the fourth [third] degree if the value of the property is \$200 or more but less than \$10,000;

(3) a felony of the third [second] degree if the value of the property is \$10,000 or more but less than \$100,000; or

(4) a felony of the second [first] degree if the value of the property is \$100,000 or more.

SECTION 5.25. Section 32.46(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.26. Section 32.47(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree if the writing:

(1) is a will or codicil of another, whether or not the maker is alive or dead and whether or not it has been admitted to probate; or

(2) is a deed, mortgage, deed of trust, security instrument, security agreement, or other writing for which the law provides public recording or filing, whether or not the writing has been acknowledged.

SECTION 5.27. Section 32.50(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.28. Section 32.72(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the third degree [~~punishable by a fine of not more than \$100,000, imprisonment for not more than 10 years, or both~~].

SECTION 5.29. Section 33.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a:

(1) felony of the third [second] degree if the value of the loss or damage caused by the conduct is \$20,000 or more;

(2) felony of the fourth [third] degree if the value of the loss or damage caused by the conduct is \$750 or more but less than \$20,000; or

(3) Class A misdemeanor if the value of the loss or damage caused by the conduct is \$200 or more but less than \$750.

SECTION 5.30. Section 36.02(e), Penal Code, as added by Section 4.02, S.B. 1, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) An offense under this section is a felony of the fourth [second] degree.

SECTION 5.31. Section 36.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor unless the coercion is a threat to commit a felony, in which event it is a felony of the fourth [third] degree.

SECTION 5.32. Section 36.05(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.33. Section 37.10(c), Penal Code, as amended by Chapter 113, Acts of the 72nd Legislature, Regular Session, 1991, and Section 37.10(d), as added by Chapter 113, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(c) Except as provided in Subsection (d) of this section, an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the fourth [third] degree.

(d) An offense under this section is a felony of the fourth [third] degree if it is shown on the trial of the offense that the governmental record was a license, certificate, permit, seal, title, or similar document issued by government, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the third [second] degree.

SECTION 5.34. Section 37.11(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor unless the person impersonated a peace officer, in which event it is a felony of the fourth [third] degree.

SECTION 5.35. Section 38.11(f), Penal Code, is amended to read as follows:

(f) An offense under this section is a felony of the fourth [third] degree if the offense for which the actor's appearance was required is classified as a felony.

SECTION 5.36. Chapter 38, Penal Code, is amended by adding Section 38.112 to read as follows:

Sec. 38.112. ESCAPE FROM COMMUNITY WORK PUNISHMENT PROGRAM. (a) A person commits an offense if, while actively participating in a community work punishment program as punishment for conviction of a fourth-degree felony, the person leaves the work detail without the permission of an employee of the institutional division authorized to supervise program participants or, if the program is operated under contract by a community

supervision and corrections department, without the permission of an authorized employee of the department.

(b) An offense under this section is a felony of the third degree.

SECTION 5.37. Section 38.12(d), Penal Code, is amended to read as follows:

(d) An offense under Subsection (a)(3) or (a)(4) of this section is a felony of the fourth [third] degree if it is shown on the trial of the offense that:

(1) the defendant has previously been convicted under Subsection (a)(3) or (a)(4) of this section; and

(2) the solicitation is performed in whole or in part:

(A) in a hospital, funeral establishment, or public or private cemetery or at the scene of an accident;

(B) by using a person who is an employee of:

(i) this state;

(ii) a political subdivision of this state, including a county, municipality, or special purpose district or authority; or

(iii) a hospital or funeral establishment; or

(C) by impersonating a clergyman, public employee, or emergency assistance worker or volunteer.

SECTION 5.38. Section 39.01(c), Penal Code, is amended to read as follows:

(c) An offense under Subsection (a)(2) of this section is:

(1) a Class C misdemeanor if the value of the use of the thing misapplied is less than \$20;

(2) a Class B misdemeanor if the value of the use of the thing misapplied is \$20 or more but less than \$200;

(3) a Class A misdemeanor if the value of the use of the thing misapplied is \$200 or more but less than \$750;

(4) a felony of the fourth [third] degree if the value of the use of the thing misapplied is \$750 or more but less than \$20,000; and

(5) a felony of the third [second] degree if the value of the use of the thing misapplied is \$20,000 or more.

SECTION 5.39. Section 39.03(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.40. Section 42.06(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class A misdemeanor unless the false report is of an emergency involving public communications, public transportation, public water, gas, or power supply or other public service, in which event the offense is a felony of the fourth [third] degree.

SECTION 5.41. Section 42.09(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree if a place of worship or burial is desecrated.

SECTION 5.42. Section 42.111(f), Penal Code, is amended to read as follows:

(f) An offense under Subdivision (1) or (5) of Subsection (a) of this section is a Class A misdemeanor. An offense under Subdivision (2), (3), or (4) of Subsection (a) of this section is a felony of the fourth [third] degree. An offense under Subdivision (6) of Subsection (a) of this section is a Class C misdemeanor.

SECTION 5.43. Section 42.13(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class B misdemeanor unless, as a result of the commission of the offense, serious bodily injury or property loss in excess of \$1,000 occurs, in which event the offense is a felony of the fourth [third] degree.

SECTION 5.44. Section 43.04(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.45. Section 43.23, Penal Code, is amended by amending Subsections (b) and (f) to read as follows:

(b) An offense under Subsection (a) of this section is a felony of the fourth [third] degree.

(f) It shall be lawful for a person who is licensed by the Texas State Board of Medical Examiners, the Texas State Board of Examiners of Psychologists, the Texas State Board of Pharmacy, or the Texas Board of Physical Therapy Examiners, or certified as a sex therapist, sex educator, or counselor in sexuality by the American Association of Sex Educators, Counselors and Therapists to sell, prescribe, and stock marital aids and other sexual devices that might otherwise be defined as obscene under this section. Possession of marital aids and other sexual devices by a person who is engaged in the teaching of safe sexual practices for a recognized nonprofit educational organization shall not give rise to any presumption of intent to promote or wholesale promote obscene devices under this section [A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same].

SECTION 5.46. Section 46.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the fourth [third] degree if it occurs on any premises licensed or issued a permit by this state for the sale or service of alcoholic beverages.

SECTION 5.47. Section 46.04(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a fourth [third] degree felony.

SECTION 5.48. Section 46.10(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.49. Section 47.03(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.50. Section 47.04(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.51. Section 47.05(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.52. Section 47.06(e), Penal Code, is amended to read as follows:

(e) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.53. Section 48.02(d), Penal Code, is amended to read as follows:

(d) A violation of this section is a felony of the fourth [third] degree.

SECTION 5.54. Sections 481.125(e) and (f), Health and Safety Code, are amended to read as follows:

(e) An offense under Subsection (b) is a Class A misdemeanor, unless it is shown on the trial of a defendant that the defendant has previously been convicted under Subsection (b) or (c), in which event the offense is a felony of the fourth [third] degree.

(f) An offense under Subsection (c) is a felony of the fourth [third] degree.

SECTION 5.55. Section 481.127(b), Health and Safety Code, is amended to read as follows:

(b) An offense under this section is a felony of the fourth [third] degree.

SECTION 5.56. Section 481.126, Health and Safety Code, is amended to read as follows:

Sec. 481.126. OFFENSE: ILLEGAL EXPENDITURE OR INVESTMENT.

(a) A person commits an offense if the person knowingly or intentionally:

(1) expends funds the person knows are derived from the commission of an offense;

(A) under Section 481.112(c), 481.113(c), 481.114(c), 481.115(c), 481.116(c), 481.117(c), 481.118(c), 481.120(c), or 481.121(c); or

(B) punishable under Section 481.120(b)(5) or 481.121(b)(4); or

(2) finances or invests funds the person knows or believes are intended to further the commission of an offense listed in Subdivision (1).

(b) An offense under this section for which the prosecution is based on an underlying offense listed in Subsection (a)(1)(A) is punishable by confinement in the institutional division of the Texas Department of Criminal Justice [Corrections] for life or for a term of not more than 99 years or less than 5 years, and a fine of not more than \$1,000,000 or less than \$50,000.

(c) An offense under this section for which the prosecution is based on an underlying offense listed in Subsection (a)(1)(B) is punishable by confinement in the institutional division of the Texas Department of Criminal Justice for a term of not more than 20 years or less than 5 years and a fine of not more than \$50,000 or less than \$5,000.

SECTION 5.57. Section 481.128(d), Health and Safety Code, as amended by S.B. 314, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(d) An offense under Subsection (a) is a felony of the fourth [second] degree, unless it is shown on the trial of a defendant that the defendant has previously been convicted under Subsection (a), in which event the offense is a felony of the third [first] degree.

SECTION 5.58. Sections 481.129(d), (f), and (g), Health and Safety Code, are amended to read as follows:

(d) An offense under Subsection (a) is:

(1) a felony of the third [second] degree if the controlled substance that is the subject of the offense is listed in Schedule I or II;

(2) a felony of the fourth [third] degree if the controlled substance that is the subject of the offense is listed in Schedule III or IV; and

(3) a Class A misdemeanor if the controlled substance that is the subject of the offense is listed in Schedule V.

(f) An offense under Subsection (c)(1) is:

(1) a felony of the third [second] degree if the defendant delivers:

(A) a prescription form; or

(B) a prescription for a controlled substance listed in Schedule II; and

(2) a felony of the fourth [third] degree if the defendant delivers a prescription for a controlled substance listed in Schedule III, IV, or V.

(g) An offense under Subsection (c)(2) is:

(1) a felony of the fourth [third] degree if the defendant possesses:

(A) a prescription form; or

(B) a prescription for a controlled substance listed in Schedule II or III; and

(2) a Class B misdemeanor if the defendant possesses a prescription for a controlled substance listed in Schedule IV or V.

SECTION 5.59. Article 42.12, Code of Criminal Procedure, is amended by adding Section 28 to read as follows:

Sec. 28. COMMUNITY WORK PUNISHMENT PROBATION. (a) A court may probate all or part of a community work punishment sentence in the same manner as other sentences are probated under this article. The court may impose as a condition of probation on a defendant whose sentence is probated under this section any condition of probation permitted in a felony case under this chapter, including conditions requiring the defendant to participate in substance abuse treatment programs or education programs and conditions requiring the defendant to make restitution to a victim of the offense.

(b) A period of probation imposed under this section may not extend past the date on which the defendant fulfills the work punishment requirement established in the sentence, but on a showing that the defendant has diligently participated in

and successfully completed a program ordered as a condition of probation, the court may terminate the probation and discharge the defendant.

SECTION 5.60. Article 42.13, Code of Criminal Procedure, is amended by adding Sections 13 and 14 to read as follows:

Sec. 13. PERFORMANCE REWARDS. (a) The board shall develop, adopt, and implement a performance rewards program to reward each county served by a department that successfully diverts offenders from confinement in the institutional division. In developing the program, the board shall consider the following factors for each county served by a department:

(1) the institutional division commitment rate in the county;
(2) the probation revocation rate in the county, with separate rates calculated for revocations based on technical grounds and revocations based on grounds other than technical; and

(3) the commitment rate and revocation rate for the 36 months immediately preceding the date on which a payment is to be made under this section.

(b) On January 1 of each year, the division shall make a payment to a county served by a department on the basis of the performance record of the county during the previous state fiscal year in diverting offenders from confinement in the institutional division, as documented by information requested by the division and provided by the department serving the county. Each department shall provide the information for each county served by the department in a format designed by the division.

Sec. 14. PAYMENTS BARRED. A county that on or after September 1, 1991, is or has been a party to a suit against the state or a state agency, the subject of which is the reimbursement of the county for the confinement of inmates in the county jail who are awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision, and that is not a signatory to a formal written agreement that resolves or abates the suit for the period after September 1, 1991, is not entitled to any payment from the division under Section 11 or Section 13 of this article for a period occurring after September 1, 1991. This section does not prevent a county from pursuing a suit for a period ending before September 1, 1991.

SECTION 5.61. In a criminal action pending on or commenced on or after the effective date of this article, for an offense committed before the effective date, the defendant, if adjudged guilty, shall be assessed punishment under this article if the defendant so elects by written motion filed with the trial court before the sentencing hearing begins.

SECTION 5.62. This article takes effect December 1, 1991.

Amendment No. 2 on Third Reading - Sadler

Amend Amendment No. 1 on third reading to C.S.S.B. 24, on page 4, line 15, by striking "fourth-, fifth-, and sixth-degree" and substituting "fourth-degree".

Amendment No. 3 on Third Reading - Finnell

Amend C.S.S.B. 24 on third reading in Section 5.01, in Section 363.001, Local Government Code, as follows:

(1) In Subsection (b), insert "Jack" between "Hutchinson" and "Jones" and insert "Montague" between "Mitchell" and "Moore".

(2) In Subsection (c), strike "Jack" and "Montague".

Amendment No. 4 on Third Reading - Eckels

Amend C.S.S.B. 24 on third reading by adding a new article as follows and renumbering existing articles as appropriate:

ARTICLE _____

SECTION ____01. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.046 to read as follows:

Sec. 411.046. HATE CRIME REPORTING. (a) The bureau of identification and records may establish and maintain a central repository for the collection and analysis of information relating to crimes that are motivated by prejudice, hatred or advocacy of violence against members or perceived members of disfavored groups, as defined by Section 138.001, Civil Practice and Remedies Code. On establishing the repository, the department shall develop a procedure to monitor, record, classify and analyze information relating to incidents directed against persons or property which are apparently so motivated. Such incidents shall include, but not be limited to, incidents for which statistics are or were kept under Pub. L. No. 101-275, as that law existed on September 1, 1991.

(b) Local law enforcement agencies shall report offenses described by Subsection (a) in the form and manner and at regular intervals as prescribed by rules adopted by the department. The department shall summarize and analyze information received under this subsection and file an annual report with the governor and legislature containing the summary and analysis.

(c) The department shall make information, records, and statistics collected under this section available to any local enforcement agency, political subdivision, or state agency to the extent that the information is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. Dissemination of the names of defendants and victims is subject to all confidentiality requirements otherwise imposed by law.

SECTION ____02. Chapter 499, Government Code, is amended by adding Section 499.007 to read as follows:

Sec. 499.007. PROHIBITED PUBLICATIONS. The Texas Board of Criminal Justice shall by rule prohibit an inmate from receiving any publication that the board determines:

(1) constitutes an imminent threat to the security, order, or discipline in the institutional division because the publication advocates prejudice or hatred of a group whose members are generally classified by society as being within the group because of one or more characteristics or beliefs common to all members;

(2) depicts, describes, or encourages activities that may lead to the use of physical violence against a group whose members are generally classified by society as being within the group because of one or more characteristics or beliefs common to all members.

The amendments were read.

Senator Lyon moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 24 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chair; Whitmire, Ellis, Green, Glasgow.

GUESTS PRESENTED

Senator Krier was recognized and introduced Girl Scout Troop 341 and a group from San Antonio serving as Senate Pages.

The Senate welcomed these young guests.

RECESS

On motion of Senator Brooks, the Senate at 11:11 a.m. took recess until 2:30 p.m. today.

AFTER RECESS

The Senate met at 2:30 p.m. and was called to order by the President.

SENATE BILL ON FIRST READING

On motion of Senator Haley and by unanimous consent, the following bill was introduced, read first time and referred to the Committee indicated:

S.B. 81 by Haley Administration
Relating to the State Preservation Board.

FLOOR PRIVILEGES GRANTED

On motion of Senator Brooks and by unanimous consent, Floor Privileges were granted to staff members Lisa McGiffert and Leslie Lemon during deliberations on **C.S.S.B. 22**.

(Senator Truan in Chair)

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 22 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 22, Relating to the delivery of health and human services.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 22** as follows:

(1) On page 2, line 66, strike the words "two-year" and substitute in lieu thereof the words "six-year"; and

(2) On page 6, beginning on line 40, strike the words ", for terms expiring February 1, 1993" and substitute in lieu thereof the words "In making the initial appointments, the governor shall appoint one member to serve a term expiring February 1, 1993, one member to serve a term expiring February 1, 1995, and one member to serve a term expiring February 1, 1997."

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.S.B. 22**, on page 21, between lines 22 and 23, by inserting a new **SECTION 4.11** to read as follows and by renumbering the subsequent section accordingly:

"SECTION 4.11. Chapter 73, Section 73.004(a), Human Resources Code, is amended to read as follows:

Sec. 73.004. ADVISORY COMMITTEE. (a) The governor [council] shall appoint [establish] an advisory committee [composed of parents, professionals, and advocacy groups. The council shall appoint as many members as it considers necessary] to assist the council in the performance of its duties. The council shall establish the size and composition of the committee by rule, consistent with federal regulations and state rules. The governor or the council may also appoint ex officio members to serve for specific purposes to assist the council in the performance of these duties."

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 22 on page 21, line 49, SECTION 5.01, by inserting "including community-based facilities," between the words "facilities" and "or".

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 4

(1) Amend C.S.S.B. 22 on page 19, by striking SECTION 4.08 in its entirety and by substituting in lieu thereof the following:

SECTION 4.08. Chapter 85, Health and Safety Code, as added by Section 36, Chapter 14, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PREVENTION OF TRANSMISSION OF HIV AND HEPATITIS B VIRUS BY INFECTED HEALTH CARE WORKERS

Sec. 85.201. POLICY. It is the policy of this state that:

(1) each health care worker who performs exposure-prone procedures should know the worker's HIV antibody status;

(2) each health care worker who performs exposure-prone procedures and who does not have serological evidence of immunity to hepatitis B virus from vaccination or from previous infection should know the worker's HBsAg status and, if that is positive, should also know the worker's HBeAg status; and

(3) any testing for HIV antibody status comply with Subchapters C, D, and F, Chapter 81.

Sec. 85.202. DEFINITIONS. In this subchapter:

(1) "Exposure-prone procedure" means a specific invasive procedure that poses a direct and significant risk of transmission of HIV or hepatitis B virus, as designated by board rule.

(2) "Health care worker" means a person who furnishes health care services in direct patient care situations under a license, certificate, or registration issued by this state, or a person providing direct patient care in the course of a training or educational program.

(3) "Invasive procedure" means a surgical entry into tissues, cavities, or organs or repair of major traumatic injuries associated with any of the following:

(A) an operating or delivery room, emergency department, or outpatient setting, including a physician's or dentist's office;

(B) cardiac catheterization or angiographic procedures;

(C) a vaginal or cesarean delivery or other invasive obstetric procedure during which bleeding may occur; or

(D) the manipulation, cutting, or removal of any oral or perioral tissues, including tooth structure, during which bleeding occurs or the potential for bleeding exists.

(4) "Universal precautions" means procedures for disinfection and sterilization of medical devices and the appropriate use of infection control, including hand washing, the use of protective barriers, and the use and disposal of needles and other sharp instruments as those procedures are defined by the Centers for Disease Control of the United States Public Health Service.

Sec. 85.203. DESIGNATION OF EXPOSURE-PRONE PROCEDURES. The board by rule shall designate specific invasive procedures that pose a direct and significant risk of transmission of HIV or hepatitis B virus as exposure-prone procedures. The Board may establish an advisory committee to assist with this designation.

Sec. 85.204. USE OF UNIVERSAL PRECAUTIONS. (a) Each health care worker shall adhere to universal precautions.

(b) A health care worker with exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient care equipment and devices used in performing invasive procedures.

(c) All institutions of higher education and professional and vocational schools training health care workers shall provide instruction on universal precautions.

(d) Health care institutions shall establish procedures for monitoring compliance with universal precautions.

Sec. 85.205. PERFORMANCE OF EXPOSURE-PRONE PROCEDURE BY INFECTED HEALTH CARE WORKER. (a) Except as provided by Subsections (b) and (c), a health care worker who is infected with HIV or who is infected with hepatitis B virus and has a positive HBeAg status may not perform an exposure-prone procedure.

(b) A health care worker may consult with a peer assistance program for that worker's profession, as established under Chapter 467 or the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), to request a determination of the circumstances, if any, under which the worker may perform exposure-prone procedures.

(c) A health care worker receiving a determination as provided by Subsection (b) may perform exposure-prone procedures consistent with the findings of the peer assistance program.

(d) In making a determination under Subsection (b), the peer assistance program shall consult with the department.

Sec. 85.206. NOTICE TO PATIENT. A health care worker who is authorized to perform exposure-prone procedures under Section 85.205 shall notify a patient of the health care worker's seropositive status and obtain the patient's consent before performing an exposure-prone procedure. Nothing in this section requires patient notification of the health care worker's seropositive status prior to performing a procedure not identified as exposure-prone.

Sec. 85.207. MODIFIED PRACTICE BY INFECTED HEALTH CARE WORKER. (a) To promote the continued use of the talents, knowledge, and skills of a health care worker whose practice is modified because of the worker's HIV or hepatitis B virus infection status, the worker should:

(1) be provided opportunities to continue patient care activities, if practicable; and

(2) receive career counseling and job retraining.

(b) A health care worker whose practice is modified because of hepatitis B virus infection may request periodic redeterminations by the worker's peer assistance program under Section 85.205 of any change in the worker's HBeAg status due to resolution of infection or as a result of treatment.

Sec. 85.208. DISCIPLINARY PROCEDURES. A health care worker who fails to comply with this subchapter is subject to disciplinary procedures by the appropriate licensing entity.

Sec. 85.209. RETENTION OF LICENSE; PERMITTED ACTS. This subchapter does not:

(1) require the revocation of the license, registration, or certification of a health care worker who is infected with HIV or hepatitis B virus;

(2) prohibit a health care worker who is infected with HIV or hepatitis B virus and who adheres to universal precautions from:

(A) performing procedures not identified as exposure-prone; or

(B) providing health care services in emergency situations; or

(3) prohibit a health care worker who is infected with HIV and who adheres to universal precautions from providing health care services, including exposure-prone procedures, to persons who are infected with HIV.

(2) Amend C.S.S.B. 22 by adding a new SECTION 4._____ to read as follows:

SECTION 4._____. Chapter 467.001(3), Health and Safety Code, is amended to read as follows:

(3) "Impaired professional" means an individual whose ability to perform a professional service is impaired by chemical dependency on drugs or alcohol or by mental illness or by infection with HIV or hepatitis B virus with a positive HBeAg status as defined in Subchapter I of Chapter 85.

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.S.B. 22 by deleting SECTION 4.07 (page _____, line _____) and renumber accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.S.B. 22 by adding a new SECTION 4._____ to read as follows:

SECTION 4._____. Chapter 161, Health and Safety Code, is amended by adding a new Subsection (i), Sec. 161.091, to read as follows:

Sec. 161.091. Prohibition on Illegal Remuneration

(i) A person licensed, certified, or registered by a health care regulatory agency of this state commits an offense if the person intentionally or knowingly offers to pay or agrees to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership or corporation for securing or soliciting of patients or patronage.

(j) This section shall not be construed to prohibit advertising except that which is false, misleading or deceptive or that which advertises professional superiority or the performance of a professional service in a superior manner and that is not readily subject to verification.

(k) Except as provided by this section, an offense under this section is a Class A misdemeanor. If it be shown in the trial of a violation of this section that the person has previously been convicted of a violation of this section, on conviction the person shall be punished for a third degree felony.

(l) The appropriate health care regulatory entity may institute an action to enjoin a violation or potential violation of this section. The action for an injunction

shall be in addition to any other action, proceeding or remedy authorized by law.
The regulatory entity shall be represented by the Attorney General.

ZAFFIRINI	JOHNSON
BROOKS	PARKER
MONCRIEF	TEJEDA
KRIER	TRUAN

The amendment was read and was adopted by a viva voce vote.

Senator Tejeda offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.S.B. 22 by inserting the following sections, appropriately numbered, to read as follows:

SECTION _____. Section 573.012(d), Health and Safety Code, as added by H.B. 902, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(d) The magistrate shall issue to an on-duty peace officer a warrant for the person's immediate apprehension if the magistrate finds that each criterion under Subsection (b) is satisfied.

SECTION _____. Section 574.045(a), Health and Safety Code, as added by H.B. 902, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) The court may authorize the transportation of a patient to the designated mental health facility by:

(1) a relative ~~[or other responsible person]~~ who has a proper interest in the patient's welfare;

(2) the facility administrator of the designated mental health facility, if the administrator notifies the court that facility personnel are available to transport the patient; or

(3) the sheriff or constable, if no person is available under Subdivision (1) or (2).

TEJEDA
 LUCIO
 MONCRIEF
 ZAFFIRINI
 TRUAN

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.S.B. 22 by striking SECTION 4.05 of the bill (Committee Printing page 17, lines 22-70, and page 18, lines 1-9), and substituting a new SECTION 4.05 to read as follows:

SECTION 4.05. (a) The TDMHMR Facility Review Task Force is established. The task force is composed of five members appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the task force, a person may not have a financial interest in a corporation, organization, or association that provides services to persons with mental retardation under a contract with the Texas Department of Mental Health and Mental Retardation, a local mental retardation authority, or a community center.

(b) The governor shall appoint the members of the task force not later than December 1, 1991, and shall designate a member to serve as the presiding officer

of the task force. Members serve for terms beginning December 1, 1991, and ending on the date this section expires.

(c) Members of the task force receive no compensation, but are entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act. The governor, the Legislative Budget Board, and the comptroller shall provide staff support and other assistance to the task force as necessary to discharge the task force's duties.

(d) The task force shall assess the status of each facility of the Texas Department of Mental Health and Mental Retardation using the following criteria:

- (1) the cost-efficiency of the facility in relation to other facilities;
- (2) the opportunity for developing an alternate use for the facility;
- (3) the availability of community resources to serve the facility's residents;
- (4) the range and quality of services delivered at the facility;
- (5) the conclusions contained in the report prepared under Subsection (e) of this section; and
- (6) any other factor the task force determines to be relevant to its duties.

(e) The task force and the comptroller, employing the comptroller's performance audit personnel, shall prepare a report comparing the total costs of providing residential services to persons with mental retardation in a state school setting to the total costs of providing that care in a community setting. The task force shall include a copy of the report with its report and findings under Subsection (i) of this section.

(f) On the basis of the assessment made under Subsection (d) of this section, the task force may recommend the expansion, closure, downsizing, or consolidation of one or more facilities of the Texas Department of Mental Health and Mental Retardation. If the task force recommends the expansion, closure, downsizing, or consolidation of a facility, the task force shall determine:

- (1) the impact of that action on the residents and their families, the employees of affected facilities, and the receiving facilities;
- (2) the economic effects of that action on the facility's community;
- (3) possible alternative uses for a facility, if closed, downsized, or consolidated; and
- (4) a specific schedule for implementing the task force's recommendations.

(g) In implementing a recommendation of the task force, the Texas Department of Mental Health and Mental Retardation shall provide for the orderly transition and integration of any clients affected by the expansion, closure, downsizing, or consolidation of one or more facilities. The department shall provide continued appropriate and adequate care.

(h) The task force shall evaluate the experiences of other states that have closed or consolidated similar facilities to aid the task force in making its determinations.

(i) The task force shall report its findings and any recommendations to the governor and the legislature not later than December 1, 1992.

(j) The Texas Department of Mental Health and Mental Retardation may not implement a recommendation of the task force without specific subsequent authorization by law.

(k) This section expires September 1, 1993.

BARRIENTOS
GREEN
SIMS
TRUAN

The amendment was read and was adopted by a viva voce vote.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.S.B. 22, on page 21, by inserting the following between lines 22 and 23, and by renumbering the remaining sections accordingly:

(1) "SECTION 4.11. Section 17, Chapter 365, Acts of the 68th Legislature, Regular Session, 1983, as amended by S.B. 346, 72nd Legislature, Regular Session, is amended by adding Subsection (9) to read as follows:

(9) make a false statement or false record on a birth certificate pursuant to Section 195.003, Health and Safety Code."

(2) "SECTION 4.12. Section 18, Chapter 365, Acts of the 68th Legislature, Regular Session, 1983, as amended by S.B. 346, 72nd Legislature, Regular Session, is amended to read as follows:

(b) Except as provided in Subsection (c), an [An] offense under this section is a Class C misdemeanor.

(c) A lay midwife commits an offense if the lay midwife intentionally or knowingly falsifies documents pursuant to Section 195.003, Health and Safety Code. An offense under this subsection is a felony of the third degree."

The amendment was read and was adopted by a viva voce vote.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 10

Amend C.S.S.B. 22, on page 21, by inserting the words "or practice midwifery," between the words "applies," and "and" on line 20 and after the word "applies" on line 22.

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.S.B. 22 by adding a new section to Article 4 as follows:

SECTION ____ Chapter 102, Health and Safety Code, is amended as follows:

Sec. 102.004. COMPOSITION OF COUNCIL. The council is composed of:

(1) one member of the house of representatives, appointed by the speaker of the house of representatives;

(2) one member of the senate, appointed by the lieutenant governor;

(3) the chairman of the Texas Board of Human Services or a representative appointed by the chairman;

(4) the chairman of the [board] Board of Health or a representative appointed by the chairman;

(5) one physician active in the treatment of cancer, appointed by the governor;

(6) one physician active in the treatment of cancer, appointed by the lieutenant governor;

(7) one physician active in the treatment of cancer, appointed by the speaker of the house of representatives;

(8) one representative of a voluntary health organization interested in cancer, appointed by the governor;

(9) one representative of a voluntary health organization interested in cancer, appointed by the lieutenant governor;

(10) one representative of a voluntary health organization interested in cancer, appointed by the speaker of the house of representatives;

(11) one representative of a public or private hospital that treats a significant number of cancer patients, appointed by the governor;

(12) one representative of a public or private hospital that treats a significant number of cancer patients, appointed by the lieutenant governor;

(13) one representative of a public or private hospital that treats a significant number of cancer patients, appointed by the speaker of the house of representatives;

(14) one member of the public, appointed by the governor;

(15) one member of the public, appointed by the lieutenant governor;

and

(16) one member of the public, appointed by the speaker of the house of representatives.

(5) two physicians active in the treatment of cancer, appointed by the speaker of the house of representatives;

(6) two physicians active in the treatment of cancer, appointed by the lieutenant governor;

(7) a representative of a voluntary health organization interested in cancer, appointed by the speaker of the house of representatives;

(8) a representative of a voluntary health organization interested in cancer, appointed by the lieutenant governor;

(9) a representative of a public or private hospital that treats a significant number of cancer patients, appointed by the speaker of the house of representatives;

(10) a representative of a public or private hospital that treats a significant number of cancer patients, appointed by the lieutenant governor;

(11) two members of the public, appointed by the speaker of the house of representatives; and

(12) two members of the public, appointed by the lieutenant governor.

Sec. 102.0041. QUALIFICATIONS OF COUNCIL. (a) A person is not eligible for appointment as a member of the council if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the council; or

(2) uses or receives a substantial amount of tangible goods, services, or funds from the council, other than compensation or reimbursement authorized by law for council membership, attendance, or expenses.

(b) A person who is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation in or on behalf of a profession related to the operation of the council may not serve as a member.

(c) Appointments to the council shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

(d) It is a ground for removal from the council if the member:

(1) does not have at the time of appointment the qualifications required in this section for appointment to the council;

(2) does not maintain during the member's service on the council the qualifications required by this section for appointment to the council;

(3) violates a prohibition established by this section;

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled meetings of the council that the member is eligible to attend during each calendar year or is absent from more than two consecutive regularly scheduled council meetings that the member is eligible to attend, except when the absence is excused by a majority vote of the council.

(e) If the presiding officer of the council has knowledge that a potential ground for removal of a member of the council exists, the presiding officer shall notify the executive director and the appointing authority.

Sec. 102.006 OFFICERS. The ~~[speaker of the house of representatives]~~ governor shall appoint one member as chairman. ~~[The lieutenant governor shall appoint one member as vice-chairman.]~~

The amendment was read and was adopted by a viva voce vote.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.S.B. 22 by adding SUBCHAPTER B-1, CLIENT IDENTIFICATION AND TRACKING, as follows:

SUBCHAPTER B-1. CLIENT IDENTIFICATION AND TRACKING

(a) Each department and agency under this act shall institute a system of client identification and tracking. Such system shall utilize all available client data including social security number and voter registration number.

(b) A client who is eligible for a social security number or voter registration but who does not have such number or registration shall be assisted by the department or agency to properly obtain a social security number and be properly registered to vote. No person eligible for a social security number or person eligible to vote may be served by a department or agency under this act until such person has obtained or made proper application for a social security number and voter registration certificate.

CARRIKER
GLASGOW
MONCRIEF
TRUAN

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Sibley asked to be recorded as voting "Nay" on the adoption of the amendment.

(Senator Green in Chair)

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

(President in Chair)

GUESTS PRESENTED

Senator Truan was recognized and introduced a group of future teachers from Texas Woman's University.

The Senate welcomed these guests.

MEMORIAL RESOLUTION

S.R. 51 - By Carriker: In memory of Jessie Denton of Wichita Falls.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 52 - By Glasgow: Welcoming students from Tarleton State University accompanied by their sponsors, Bart Bradberry, student body president, and Ben Bradberry, senior class president.

S.R. 53 - By Barrientos: Paying tribute to Colonel Joe E. Milner on the occasion of his retirement as Director of the Texas Department of Public Safety after 37 years of service.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 4:14 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

Sent to Governor
(July 24, 1991)

S.B. 9

S.C.R. 2

S.C.R. 6

NINTH DAY

(Thursday, July 25, 1991)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Harris of Tarrant.

A quorum was announced present.

The Reverend John Flowers, Oak Hill United Methodist Church, Austin, offered the invocation as follows:

Lord God, I come to pray today with a specific concern in my heart. Far too often these, our leaders of this great State, receive criticism and blame for their decisions as they struggle with the issues of taxation and education and prisons. I come not with a critique, but with a thanksgiving. This group has been a big part of the decision as to building new State prisons, and I come with a grateful heart filled with thanksgiving.

I had the opportunity to spend five full days in the Ferguson Unit outside of Huntsville just this past week. I heard from several inmates, one in particular, as they described the correlation between overcrowding conditions and tension, anxiety and violence. What these men and women have done with their vote is to